TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 350

EDUCATIONAL FILMS CORPORATION OF AMERICA, APPELLANT,

vs.

HAMILTON WARD, ATTORNEY GENERAL OF THE STATE OF NEW YORK, AND THOMAS M. LYNCH ET AL., ETC.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

FILED AUGUST 14, 1930

(35,272)

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[fols. 1-3] Citation, in usual form, showing service on Hamilton Ward, filed July 25, 1930, omitted in printing.

[fol. 4]

IN UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

In Equity. No. E 52-72

EDUCATIONAL FILMS CORPORATION OF AMERICA, Plaintiff,

against

HAMILTON WARD, Attorney General of the State of New York, and Thomas M. Lynch, John J. Merrill, and Mark Graves, Comprising the New York State Tax Commission, defendants

STIPULATION RE TRANSCRIPT OF RECORD

It is hereby agreed and stipulated, in lieu of præcipes, that the following portions of the record of said District Court in the above matter are to be included in the transcript:

Order to Show Cause, containing temporary restraining order.

Bill of Complaint.

Schedule "A" (attached to bill of complaint).

Schedule "B" (attached to bill of complaint).

Affidavit of Dario L. Faralla.

Exhibit "C" (attached to affidavit).

Affidavit of Roger Hinds.

Order amending Bill of Complaint, dated February 21, 1930.

Stipulation Amending Bill of Complaint.

Order amending Bill of Complaint, dated March 25, 1930.

Opinion.

Decree denying injunction and dismissing bill.

Petition for Appeal (and annexed order allowing appeal).

Assignment of Errors.
Dated New York City, August 4, 1930.
Roger Hinds, Solicitor for Plaintiff. Hamilton Ward, Attorney General, Solictor for Defendants.

[fol. 5] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER TO SHOW CAUSE

This day came Educational Films Corporation of America, by Roger Hinds, its solicitor, and moved the Court for a temporary restraining order in accordance with the prayer of its bill of complaint filed on the 18th day of February, 1930, restraining and enjoining the defendants therein named and each of them, and their successors in office and agents, from proceeding further with the assessment, levy and collection of a certain threatened tax so assessed, based on and measured by income from copyrights of the United States, and in support of its said motion plaintiff tendered to the Court the affidavit of Dario L. Faralla, verified the 15th day of February, 1930, and the affidavit of Roger Hinds, verified the 18th day of February, 1930, and the aforesaid bill of complaint, verified the [fol. 6] 15th day of February, 1930, and it appearing to the Court that the said threatened tax so complained of in the bill of complaint is payable on or before the 28th day of February, 1930, under severe penalties and under threat of levy and distress, despite plaintiff's protest that said tax, or any tax based on or measured by its income derived from copyrights of the United States is violative of its rights under the United States Constitution, and that great and irreparable injury would in the event of such collection, levy and distress result therefrom to the plaintiff for which plaintiff would have no adequate remedy or redress at law, now upon motion of the aforesaid solicitor for the plaintiff, it is

Ordered and decreed that the defendants Thomas M. Lynch, John J. Merrill and Mark Graves, comprising the New York State Tax Commission, and Hamilton Ward,

Attorney General of the State of New York, be and they are hereby severally enjoined and restrained until the further order of the Court from proceeding further with the assessment, levy and collection of said threatened tax based on and measured as aforesaid by plaintiff's income from copyrights of the United States, and from making any distraint or levy with respect to such tax upon the property of the plaintiff and or exacting any penalties for the nonpayment thereof, upon filing undertaking in the sum of $8,000 conditioned on the payment of said taxes and costs if it be finally determined herein that plaintiff is not entitled to said injunction; and it is

Further ordered that plaintiff's motion for an injunction continuing said restraining order during the pendency of [fol. 7] this action be set for the 8th day of March, 1930, at 10:30 o'clock in the forenoon in Room 235 in the Old Post Office Building, New York City, and I hereby call to my assistance at the hearing of said motion, the Honorable Harrie B. Chase, a Circuit Judge of this Circuit, and the Honorable John W. Woolsey, a District Judge of this District, and defendants are hereby required to show cause at said hearing why said temporary order should not be continued and an injunction to the aforesaid effect issued restraining defendants from the aforesaid acts during the pendency of this action and why such other and further relief as may be just in the premises should ont be granted; and it is

Further ordered that a copy of this order and of the aforesaid bill of complaint and affidavits be served upon the defendants herein and notice thereof given to the Governor of the State of New York not less than five (5) days before the aforesaid date of hearing.

Dated at New York, N. Y., this 21st day of February, 1930.

Wm. Bondy, Judge of the United States District Court for the Southern District of New York.

[fol. 8] IN UNITED STATES DISTRICT COURT

[Title omitted]

BILL OF COMPLAINT

To the Honorable Judges of the District Court of the United States in and for the Southern District of New York:

Educational Films Corporation of America, a corporation organized under and by virtue of the laws of the State of New York, brings this suit against Hamilton Ward, Attorney General of the State of New York, a resident and citizen of the State of New York, and a resident of the City of Buffalo in the State of New York, and M. F. Loughman, John J. Merrill and Mark Graves, comprising the New York State Tax Commission, all citizens and residents of the State of New York.

And for its cause of action, plaintiff states:

1. That the plaintiff complains herein as hereinbelow set forth of the infringement or threatened infringement of its [fol. 9] rights by the defendants under the Constitution of the United States, for which there is no adequate remedy at law. That the amount in controversy herein exceeds the sum of $3,000 exclusive of interest and costs.

2. That the plaintiff is and was at all the times herein mentioned a corporation organized and existing under and by virtue of the laws of the State of New York and doing business in the State of New York with its principal place of business in that State in the City, County and Southern District of New York.

3. That the defendant Hamilton Ward is the Attorney General of the State of New York, and is a citizen of the State of New York and a resident of the City of Buffalo, in the Western District of New York.

4. That the defendants, M. F. Loughman, John J. Merrill and Mark Graves, comprise the New York State Tax Commission and are all citizens of the State of New York, and are hereinafter referred to as "the defendant Commissioners".

5. That during the fiscal year ending June 30, 1929, plaintiff was the owner and proprietor of certain copyrights granted by the United States of America upon motion picture films or productions, which copyrights are described by name, registration number and date in the annexed Schedule "A" which is hereby made part of this bill of complaint; and as such owner had the exclusive right to project and exhibit said films or productions and to license the same for projection or exhibition; that during [fol. 10] said fiscal year plaintiff having licensed same to sundry exhibitors for projection and exhibition, received substantial sums from said exhibitors as royalties under said copyrights, to wit, the sum of $162,588.98, which constituted plaintiff's income from said copyrights.

6. That on or about the 11th day of October, 1929, plaintiff, pursuant to Article 9-A, Section 211, of the New York Tax Law, duly executed, verified and filed with the defendant Commissioners its corporate franchise tax return for its fiscal year ending June 30, 1929, copy of which return is hereunto annexed as Exhibit "B" hereby made part of this bill of complaint, wherein plaintiff, as required by said statute, reported its entire net income for its fiscal year ending, June 30, 1929 as shown by its report to the United States Treasury Department, viz: the sum of $231,372.94, and the amount of its total gross income as reported on said Federal income tax return for the above period, viz: $385,163.35, and the several deductions, aggregating $153,790.41 shown thereon, the difference being said net income, as aforesaid, shown by its report to the United States Treasury Department, and wherein plaintiff was required to state whether it claimed that the amount of said net income as thus reported to the United States Treasury Department was inaccurate and inapplicable for purposes of the computation of said New York Franchise Tax, and accordingly stated that said net income reported on said federal tax return was inaccurate and inapplicable and that the amount of net income claimed to be correct was the sum of $68,683.96, being the amount of plaintiff's net income for said period after excluding said income from copyrights from its gross income as aforesaid, viz: $385,[fol. 11] 163.35 gross income (including income from copyrights) less $162,588.98 income from copyrights, less

$153,790.41 deductions as aforesaid, resulting in net income applicable to the computation of said New York franchise tax (after deducting copyright income from gross income) amounting to $68,783.96 as aforesaid.

7. That the defendant commissioners have not disputed that the facts respecting plaintiff's gross income and the deductions therefrom as aforesaid for said fiscal year were as thus stated by plaintiff in its said return, as was indeed the fact, nor have they disputed that if said royalties were to be excluded (as was done in plaintiff's return) plaintiff's net income for said fiscal year would be the sum of $68,783.96 as aforesaid.

8. That the amount of plaintiff's franchise tax for said fiscal year measured by said net income ($68,783.96) and computed in accordance with the said statute is 4½% of said amount, or $3,095.28, which sum plaintiff has duly paid to said State Tax Commission without prejudice.

9. That the defendant Commissioners have, however, refused to allow plaintiff to exclude from its income for said fiscal year the royalties which it received as aforesaid from United States copyrights and have served upon plaintiff a notice of assessment, pursuant to Section 219-B of said Tax Law, in which they disallow plaintiff's claim that said royalties should be excluded, and the defendant Commissions have (as set forth in said notice) as the result of including, in the computation of plaintiff's net income, said income from copyrights in plaintiff's gross income, ac- [fol. 12] cordingly assessed upon plaintiff a tax of $10,411.79, which is $7,316.51 in excess of the amount of said tax computed after excluding said income from copyrights from plaintiff's gross income as aforesaid.

10. That in so assessing said tax upon plaintiff, measured by income including income from copyrights, defendant Commissioners have done as required by said statute, being Section 208, Subdivision 3, of the New York Tax Law.

11. That said statute in so far as it levies or attempts or purports to levy or assess a tax measured by income including income from copyrights is unconstitutional being in violation of Article I, Section 8 of the Constitution of the United States, and being in effect a tax by one of the

several states upon an instrumentality of the United States or the income therefrom.

12. That in said return (Exhibit "B") plaintiff reported its income from said copyrights during said fiscal year, but asserted and claimed that they should be excluded from plaintiff's income in measuring said tax, and in so doing expressly asserted and based its said claim upon its right under the Constitution of the United States not to be subjected to any tax on, or measured by said copyrights or any income therefrom, which claim has been disallowed and overruled, and right denied, by defendant Commissioners.

13. That despite the aforesaid assertion by plaintiff of its constitutional right the defendant Commissioners have threatened in and by said notice of assessment and otherwise to proceed forthwith to collect sum of $7,316.51 (being [fol. 13] the amount of tax set forth in said notice of assessment less the amount heretofore paid by plaintiff and admitted to be due) by execution or warrant of distress upon plaintiff's property unless plaintiff shall pay said tax within 30 days from the date of said notice, viz.: on or before February 28, 1930, and furthermore said tax, unless paid by plaintiff, will thereupon become a lien on plaintiff's real property in the State of New York and plaintiff become liable under said statute to penal charges at the rate of 10% plus 1% for each month that said tax shall remain unpaid.

14. That further application to said State Tax Commission by plaintiff for the revision of said assessment would be useless, because said State Tax Commission after being fully apprised in plaintiff's said return and otherwise of the fact, verified by plaintiff's treasurer under oath, that plaintiff's gross income for said fiscal period included income from copyrights to the amount aforesaid and that plaintiff asserts its right under the United States Constitution to have said copyright income excluded from its income in computing said tax, has nevertheless refused to exclude said copyright income in the computation of said tax and has rejected and ignored plaintiff's claim based on its constitutional rights, and because such application to the State Tax Commission, even if plaintiff should make it, would not, under said statute and the practice and regula-

tions of the defendants, act as a stay of the payment of said tax.

15. Upon information and belief, that if plaintiff shall voluntarily or under duress and protest pay said tax it will [fol. 14] be without adequate remedy at law under the procedure provided by said statute for the revision and review of said assessment because said statute fails to provide for the payment to the taxpayer of interest even though it be held that said assessment was not lawfully paid and that said tax was not lawfully levied and collected, and because under the procedure as provided by said statute as applied in actual practice, a long period of time would necessarily be consumed in seeking and obtaining the review and revision of said assessment by the defendant Commissioners and by the Appellate Division of the Supreme Court, Third Department, on writ of certiorari, and thereafter by the Court of Appeals, for which period no interest could be collected, and because, moreover, the said statute does not with legal certainty as a matter of right entitle plaintiff to the actual refund of the amount of said tax even if it should be finally determined under the procedure provided by said statute that the same was unlawfully and unconstitutionally assessed, levied and collected, but provides merely that if it shall appear as a result of such proceedings that the taxpayer shall have paid an excessive tax it shall be entitled to credit for the amount thereof upon the books of the Tax Commission, or the amount of such credit, without interest, may, at the direction of the State Tax Commission, be refunded to such taxpayer out of any revenues received to the credit of the State Comptroller, and, upon information and belief, it has not been judicially determined by the courts of New York State that taxpayers, under said provision, are entitled to such refund as a matter of right; and for the further reason that under said state procedure it is a prerequisite of obtaining from the courts even such [fol. 15] inadequate relief as is available thereunder that the tax first be paid, and thereafter a hearing granted to the plaintiff taxpayer by said State Tax Commission, and that a determination be made by the latter after such hearing, without, however, any provision of statute or regulation specifying the time within which said State Tax Com-

mission is required either to grant a hearing to the plaintiff taxpayer or to make its determination of the taxpayer's application for revision, and in actual practice said State Tax Commission has unreasonably and indefinitely deferred the dates of such hearings and its determination of similar applications by taxpayers, and continues to do so, and makes a practice of announcing to taxpayers that hearings on their applications cannot be reached in the near future, without any means afforded by the statutes and procedure of New York State whereby the complaining taxpayers, including plaintiff herein, can as a matter of right obtain within any definite or reasonably expected period such hearings or access to, and relief from, the courts of the State of New York; that, moreover, upon information and belief, the defendants have formed and announced a fixed purpose not to allow, but on the contrary to reject and disallow, any and all claims by corporate taxpayers that income from copyrights, patents, federal bonds or other federal instrumentalities may not (under the federal constitution) be included in the measure of the franchise tax and that they will continue to adhere to said purpose and practice of including, and refusing to exclude, such income in computing such taxes unless and until it be determined by the courts that the constitutional rights of corporate taxpayers are thereby violated.

[fol. 16] 16. Upon information and belief that even the uncertain, unsatisfactory, indefinitely delayed, and inadequate remedy at law which might be available to the plaintiff in the courts of the State of New York does not exist in the Courts of the United States, and plaintiff has no remedy at law whatsoever, either adequate or inadequate, in the federal courts, for the reason that the statutes of the State of New York do not provide for any suit which plaintiff or any other taxpaying corporation might bring to recover back a tax illegally paid, but only the remedy of a writ of certiorari out of the Appellate Division of the Supreme Court, Third Department; that furthermore even if the State Tax Commission can be compelled by writ of mandamus out of said state court to grant a hearing to a taxpayer and make its determination of the taxpayer's ap-

plication for revision, within a reasonable time, the existence of that remedy, even in the state courts, is at best uncertain and doubtful under the decisions of the state courts, and does not exist at all in the federal courts.

17. That plaintiff therefore has no adequate remedy at law in the premises and for that reason invokes the aid of this Court of Equity to the end that its said rights under the Constitution of the United States may be protected and enforced.

18. That the defendant Hamilton Ward, as Attorney General of the State of New York is made party defendant herein pursuant to Section 380 of the Code of Laws of the United States (Section 266 of the Judicial Code).

Wherefore Plaintiff prays that the final decree of this Court be made forever enjoining the defendants and their [fol. 17] successors in office and agents from proceeding further with the assessment, levy and collection of said threatened tax so assessed, measured as aforesaid by including said income from copyrights in plaintiff's gross income, and that they be similarly enjoined during the pendency of this suit.

Roger Hinds, Solicitor for Plaintiff, 165 Broadway, Borough of Manhattan, New York City. Benjamin P. De Witt, Siegfried Hartman, and Roger Hinds, of Counsel.

[fol. 18] *Duly sworn to by Dario L. Faralla. Jurat omitted in printing.*

Educational Films Corporation of America

Copyright

Picture	No.	Date	Issued to	Rentals
Don't Fail	20613	9/29/24	Ed. Films Corp. of America	
Cheer Up	20652	10/13/24	" " " " "	
Desert Blues	20651	"	" " " " "	
No Fooling	20764	11/12/24	" " " " "	
Go Easy	20797	11/24/24	" " " " "	
Empty Heads	20877	12/10/24	" " " " "	
Watch your Pep	20875	"	" " " " "	
Cut Loose	20911	12/16/24	" " " " "	
Have Mercy	20994	1/6/25	" " " " "	
The Mad Rush	21048	1/18/25	" " " " "	
Weak Knees	21200	3/5/25	" " " " "	
Have a Heart	21120	2/9/25	" " " " "	
Welcome Danger	21268	3/10/25	" " " " "	
High Hopes	21281	3/30/25	" " " " "	
Merrymakers	21329	4/6/25	" " " " "	
Inside Out	21372	4/14/25	" " " " "	
Ship Shape	21373	4/21/25	" " " " "	
Rock Bottom	21541	6/8/25	" " " " "	

SCHEDULE "A" to BILL OF COMPLAINT—Continued

Picture	Copyright No.	Date	Issued to	Rentals
Wild Waves	21485	5 21 25	Ed. Films Corp. of America	
Fun's Fun	21678	7 27 25	" " " " "	..
Wake Up	21594	6 26 25	" " " " "	..
Never Fear	21740	8 10 25	" " " " "	..
Permit Me	21831	9 22 25	" " " " "	..
Look Out	21832	"	" " " " "	..
				$1,842 36
In Deep	21985	11 11 25	Ed. Films Corp. of America	
Who's Which	21982	11 9 25	" " " " "	..
Dog Daze	22055	11 27 25	" " " " "	..
Scrambled Eggs	22107	12 11 25	" " " " "	..
Sweet & Pretty	22197	12 29 25	" " " " "	..
Hot Feet	22217	12 30 25	" " " " "	..
Slow Down	22284	1 22 26	" " " " "	..
What's Up	22333	1 27 26	" " " " "	..
Sky Hooks	22448	3 5 26	" " " " "	..
Brotherly Love	22465	3 8 26	" " " " "	..
Be Careful Dearie	22529	1 31 26	" " " " "	..
Keep Trying	22608	3 21 26	" " " " "	..

Don't Stop	22601	3	28	26	"	"	"	"	"
Quick Service	22613	3	19	26	"	"	"	"	"
Scratching Through	22751	4	28	26	"	"	"	"	"
To-Nights the Night	22886	7	8	26	"	"	"	"	"
Somebody's Wrong	22905	7	13	26	"	"	"	"	"
Who's Boss	22953	7	26	26	"	"	"	"	"
What A Life	22906	7	13	26	"	"	"	"	"
Meet My Dog	22953	7	17	26	"	"	"	"	"
Hold 'Er Sheriff	22952	7	26	26	"	"	"	"	"
Hanging Fire	23351	11	17	26	"	"	"	"	"
Squirrel Food	23138	9	22	26	"	"	"	"	"
Don't Miss	23191	10	5	26	"	"	"	"	"
									2,954 91
The Radio Bug	23303	11	8	26	Ed. Film Exchanges, Inc				
Kiss Me Kate	23206	10	11	26	"	"	"	"	
Blumb Goofy	23200		"		"	"	"	"	
Pound Foolish	23226	10	19	26	"	"	"	"	
Hiss Off Day	23304	11	8	26	"	"	"	"	
Bad Breaks	23357	11	19	26	"	"	"	"	
Sweet Baby	23388	12	3	26	"	"	"	"	
Mister Chump	23448	12	20	26	"	"	"	"	
Hot Cookies	23450		"		"	"	"	"	

SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Copyright Date	Issued to	Rentals
Dear Season	23525	1/12/27	Ed. Film Exchanges, Inc	
High Spirits	23567	1/18/27	" " " "	
[fol. 20] Quiet Please	23677	1/18/27	" " " "	
Ask Dad	23678	2/16/27	" " " "	
A Perfect Day	23704	2/28/27	" " " "	
First Prize	23908	5/ 2/27	" " " "	
Hot Soup	23797	3/28/27	" " " "	
Hold That Bear	23907	5/ 2/27	" " " "	
Auntie's Ante	23912	"	" " " "	
A Gym Dandy	23938	5/10/27	" " " "	
Careless Hubby	24369	8/20/27	" " " "	
Night Owls	24257	8/ 2/27	" " " "	
The Movie Hound	24130	6/27/27	" " " "	
Brave Cowards	24258	8/ 2/27	" " " "	
Hold Fast	24231	7/27/27	" " " "	
				1,845 95
Fully Equipped	24370	8/27/27	Ed. Film Exchanges, Inc	
Lucky Dog	24371	9/ 7/27	" " " "	
Off Again	24503	10/12/27	" " " "	

Eats for Two	24549	10/24/27	"	"	"	"		
Shooting Wild	24606	11/ 1/27	"	"	"	"		
He Tried to Please	24671	11/18/27	"	"	"	"		
Rest Day	24706	11/28/27	"	"	"	"		
Ain't Nature Grand	24708	11/28/27	"	"	"	"		
It's Me	24729	11/28/27	"	"	"	"		
Fall In	24766	12/20/27	"	"	"	"		
Wedding Slips	24828	1/ 5/28	"	"	"	"		
All Set	24906	1/23/28	"	"	"	"		
Running Ragged	24911	1/26/28	"	"	"	"		
A Mysterious Night	24928	1/31/28	"	"	"	"		
Pretty Baby	24975	2/13/28	"	"	"	"		
Count Me Out	25009	2/28/28	"	"	"	"		
Spring Has Come	25059	3/13/28	"	"	"	"		
Green-Eyed Love	25076	3/19/28	"	"	"	"		
Off Balance	25141	4/ 9/28	"	"	"	"		
Never Too Late	25178	4/23/28	"	"	"	"		
Three Tough Onions	25211	5/ 7/28	"	"	"	"		
Crown Me	25286	5/12/28	"	"	"	"		
Sailor Boy	25322	6/ 4/28	"	"	"	"		
Oh Mama	25376	6/18/28	"	"	"	"		
The Lost Laugh	25410	6/25/28	"	"	"	"		
Hard Work	25463	7/16/28	"	"	"	"		

SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Copyright Date	Issued to	Rentals
Never Again	20571	8/24/24	Reel Comedies, Inc	
Stupid But Brave	20695	10/27/24	" " "	
Lovemania	21039	12/28/24	" " "	
Dynamite Doggie	21331	4/ 6/25	" " "	
The Iron Mule	21426	5/ 4/25	" " "	
Curses	21487	5/21/25	" " "	
				970.80
Her Boy Friend	20595	9/23/24	Chadwick Pictures Corp	
Kid Speed	20799	11/24/24	" " "	
The Dome Doctor	21408	4/27/25	Gaumlett & Company	
The Cloudhopper	21575	6/22/25	" "	
				1,705.55
Boneyard Blues	20653	10/14/24	Hurd Productions Inc	
The Hoboken Nightingale	20696	10/27/24	" " "	
The Sawmill Four	21069	12/16/24	" " "	
The Artist's Model	20876	12/10/24	" " "	

Broadcasting	21028	1/14/25	"	"	"			
He Who Gets Socked	21121	2/ 9/25	"	"	"			
Two Cats & A Bird	21227	3/10/25	"	"	"			
The Mellow Quartette	21407	4/27/25	"	"	"			
Monkey Business	21504	5/28/25	"	"	"			
Two Poor Fish	21611	6/29/25	"	"	"			
Prop's Dash for Cash	21629	7/ 6/25	"	"	"			
Bobby Bumps & Company	21834	9/22/25	Ed. Films Exchanges Inc					
Props & The Spirits	21867	10/ 1/25	"	"	"	"		

444 46

[fol. 21] Rough & Ready	20649	10/13/24	Sultan Comedies					
Fast & Furious	20650	10/13/24	"	"				
Poor Butterfly	20765	11/12/24	"	"				
What a Night	20796	11/24/24	White Productions, Inc					
Motor Mad	21221	1/28/25	"	"				
Low Tide	21042	1/19/25	"	"				
Wild Game	20570	9/ 6/24	Sultan Comedies					
Step Lightly	21149	2/14/25	White Productions, Inc					
His High Horse	21148	2/14/25	"	"				
Hello Hollywood	21228	3/10/25	"	"				
Red Pepper	21330	4/ 6/25	"	"				
Wide Awake	21395	4/22/25	"	"				

SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Copyright Date	Issued to	Rentals
Fares Please	21519	6/ 1/25	White Productions, Inc.	
Hello Goodbye	21486	5/21/25	" "	
Going Great	21612	6/29/25	" "	
Below Zero	21669	7/23/25	" "	
Hot & Heavy	21833	8/10/25	" "	
Beware	21833	9/22/25	E. F. Ex. Inc	
				1,014.12
Jonah Jones	20612	9/29/24	Lloyd Hamilton Corp	
Crushed	20798	11/24/24	" "	
Hooked	21099	2/ 4/25	" "	
Half a Hero	21226	3/10/25	" "	
King Cotton	21494	5/26/25	" "	
Waiting	21677	7/27/25	" "	
				1,415.26
Oh Teacher	20569	8/31/24	Sultan Comedies	
Dirty Hands	20648	10/13/24	" "	

Goat Getters	21162	2/25/25	White Productions, Inc		
Wildcat Willie	21132	2/12/25	"	"	
Dragon Alley	21447	5/11/25	"	"	
Baby Blues	21595	6/26/25	"	"	
					2,458 10
Jolly Tars	23069	8/31/26	Ed. F. Ex., Inc		
Teacher, Teacher	23271	10/28/26	"	"	
One Sunday Morning	23441	12/14/26	"	"	
Peaceful Oscar	23612	1/30/27	"	"	
Somebody's Fault	23746	3/ 8/27	"	"	
Breezing Along	23910	5/ 2/27	"	"	
Goose Flesh	24074	6/14/27	"	"	
His Better Half	24261	8/ 2/27	"	"	
					7,759 46
Movieland	23368	11/19/26	"	"	
Howdy Duke	23569	1/18/27	"	"	
Drama De Luxe	23679	2/16/27	"	"	
Naughty Boy	23909	5/ 2/27	"	"	
Who's Afraid	24095	6/16/27	"	"	
Monty of the Mounted	24256	8/ 2/27	"	"	
					7,596 39

Picture	Copyright No.	Copyright Date	Copyright Issued to	Rentals
Beauty a la Mud	23118	9/15/26	Christie Film Co., Inc	
Shell Socked	23273	10/28/26	" "	
Wild & Woozy	23474	12/27/26	" "	
Here Comes Precious	23796	3/28/27	" "	
No Sparking	24092	6/16/27	" "	
Meet The Folks	24360	8/ 2/27	" "	
A Dippy Tar	23121	9/15/26	" "	
A Briny Boob	23227	10/19/26	Ed. F. Ex., Inc	
Have Courage	23412	12/ 9/26	Christie Film Co	
Sailor Beware	23682	2/16/27	" "	
Dumb Belles	24398	9/ 8/27	" "	
Wild Wappops	24280	8/10/27	Ed. F. Ex., Inc	
The Daffy Dill	23070	8/31/26	Christie Film Co., Inc	
Uppercuts	23119	9/15/26	" "	
Hold Still	23204	10/11/26	" "	
Dodging Trouble	23305	11/ 8/26	" "	
[fol. 22] Cool Off	23427	12/13/26	" "	
Break Away	23624	1/12/27	" " " "	
Chicken Feathers	23695	2/23/27	" " " "	
Cash & Carry	23735	2/27/27	" " " "	

Queer Ducks	23967	5/16/27	"	"	"	"				
Giddy Gobblers	24244	7/27/27	"	"	"	"				
Wife Shy	23190	10/ 5/26	"	"	"	"				
Hoot Mon	23356	11/19/26	"	"	"	"				
Don't Fire	23449	12/20/26	"	"	"	"				
Duck Out	23639	2/ 8/29	"	"	"	"				
Jail Birdies	24245	7/27/29	"	"	"	"				
Tie That Bull	24093	6/16/27	"	"	"	"				
									2,139	81
My Kid	23371	11/26/26	Ed. Film Ex., Inc.							
Open Spaces	23299	11/ 8/26	"	"	"	"				
Funny Face	23499	1/ 3/27	"	"	"	"				
Grandpa's Boy	23703	2/28/27	"	"	"	"				
Atta Baby	23968	5/16/27	"	"	"	"				
Kid Tricks	24129	6/27/27	"	"	"	"				
									6,712	58
The Vision	22813	6/ 2/26	Romance Productions, Inc							
The Blue Boy	23085	9/ 8/26	"		"		"			
Mona Lisa	23340	11/14/26	"		"		"			
									1,569	86

Picture	Copyright No.	Date	Issued to	Rentals
All Star Freaks	23213	10 12 26	Futter Productions, Inc	
Rare Bits	23215	10 12 26	" " "	
What Nots	23201	10 11 26	" " "	
Then & Nows	23358	11 19 26	" " "	
Nic-Nax	23410	11 9 26	" " "	
Highlights	23563	1 18 27	" " "	
Fiddlesticks	23680	2 16 27	" " "	
Odd Jobs	24115	6 24 27	" " "	
Growing Money	23904	5 2 27	" " "	
Mystic India	4094	6 16 27	" " "	
Pick A Pet	24375	8 27 27	" " "	
Traveling At Home	24259	8 2 27	" " "	
				429 75
Open House	23086	9 8 26	Ed. Film Ex., Inc.	
The Humdinger	23205	10 11 26	" " " "	
Close Shaves	23389	12 3 26	" " " "	
Wedding Yells	23640	2 8 27	" " " "	
The Drawback	23798	3 27 27	" " " "	

Her Husky Hero	24096	6	16	27	"	"	"	"
								5,534 84
Red Hot Rails	23225	10	19	26	Sherwood Wadsworth P., Inc			
Flaming Ice	23224	10	19	26	"		"	"
Missing Links	23137	9	22	26	"		"	"
The Yellow Pirate	23139	10	5	26	"		"	"
Cut Price Glory	23203	10	11	26	"		"	"
The Raging Tide	23302	11	8	26	"		"	"
The Mighty Smithy	23359	11	19	26	"		"	"
Barnum Was Right	23442	12	16	26	"		"	"
Balloon Tired	23409	12	9	26	"		"	"
Why Women Pay	23443	12	16	26	"		"	"
The Peaceful City	23498	1	2	27	"		"	"
Mike Wins A Medal	23566	1	18	27	"		"	"
Soft Soap	23611	1	30	27	"		"	"
The Heavy Date	23642	3	8	27	"		"	"
Hitting The Trail	23694	2	23	27	"		"	"
Local Talent	23744	3	8	27	"		"	"
Ruling The Rooster	23800	3	27	27	"		"	"
The Prince of Whales	23905	5	2	27	"		"	"
Racing Fever	23906	5	2	27	"		"	"
North of Nowhere	23965	5	16	27	"		"	"
								1,296 64

SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Copyright Date	Issued to	Rentals
[fol. 23] Falling Water Valley	3570	9 21 26	Robert C. Bruce	
Typical Tropical Iky	3635	10 27 26	Ed. Film Exchanges, Inc	
The River Road	3686	12 9 26	Robert C. Bruce	
Hula Hula	3687	12 13 26	" " "	
Sunbeams	3688	12 13 26	" " "	
Steamer Day	3754	1 24 27	" " "	
The Joys of Camping	4010	5 10 27	" " "	
Hawaii from the Car Window	3855	3 20 27	" " "	
Buried Treasure	4011	5 10 27	Edo. Prod. Unit Inc	
Gray Days	4012	5 10 27	" " " "	
Tenants of Marble Canyon	4202	8 10 27	" " " "	
River of Suds	4190	8 2 27	" " " "	
				$780 06
The Jelly Fish	23120	9 15 26	Ed. Film Exchanges Inc	
Pink Elephants	23272	10 27 26	" " " "	
Midnight Follies	23300	11 8 26	" " " "	
Flaming Romance	23334	11 14 26	" " " "	
Much Mystery	23411	12 9 26	" " " "	

High Seal Blues	23473	12/27/26	"	"	"	"	
Busy Lizzie	23568	1/18/27	"	"	"	"	
Listen Lena	23641	2/8/27	"	"	"	"	
Hot Lightning	23747	3/8/27	"	"	"	"	
Roped In	23745	3/8/27	"	"	"	"	
Brain Storms	23939	5/10/27	"	"	"	"	
Circus Capers	24075	6/14/27	"	"	"	"	
Queens Wild	24094	6/16/27	"	"	"	"	
No Cheating	24243	7/27/27	"	"	"	"	
Sure Cure	24184	7/14/27	"	"	"	"	
High Spots	24222	7/26/27	"	"	"	"	
Plumb Dumb	24281	8/10/27	"	"	"	"	
							$13,137 02
Felix the Cat Two Lip Time	23214	10/12/26	Pat Sullivan				
" " " Scrambled Yeggs	23202	10/11/26	"	"			
Felix the Cat.							
In Shatters the Sheik	23354	11/19/26	"	"			
" Hunts the Hunter	23301	11/8/26	"	"			
" Land O'Fancy	23355	11/19/26	"	"			
" Busts the Bubble	23385	11/30/26	"	"			
" Reverse English	23425	12/13/26	"	"			
" Trumps the Ace	23426	12/13/26	"	"			

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SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Copyright Date	Issued to	Rentals
In Collars the Button ..	23497	12 24 26	Pat Sullivan	....
" Zoo Logic	23502	1 4 27	" "	....
" Dines & Pines	23564	1/18/27	" "	....
" Pedigreedy	23643	2/ 8/27	" "	....
" Icy Eyes	23681	2/16/27	" "	....
" Stars in Stripes	23705	2/28/27	" "	....
" Sees 'Em in Season	23743	3/ 8/27	" "	....
" Barn Yarns	23799	3/28/27	" "	....
" Germania	23940	5/10/27	" "	....
" Sax Appeal	24242	7/27/27	" "	....
" Eye Jinks	24241	7/27/27	" "	....
" as "Roameo"	23966	5/16/27	" "	....
" Ducks His Duty	24097	6/16/27	" "	....
" Dough—Nutty	24400	9/14/27	" "	....
" A "Loco"—Motive	24183	7 12 27	" "	....
" Art For Heart's Sake	24232	7/27/27	" "	....
" Travel Hog	24282	8/10/27	" "	....
				$1,947 27

[fol. 24] At Ease	24397	9/12/27	Ed.	Film	Exchanges	Inc		
New Wrinkles	24607	11/1/27	"	"	"	"		
Papa's Baby	24809	12/27/27	"	"	"	"		
Always a Gentlemen	25018	2/5/28	"	"	"	"		
Between Jobs	25078	3/18/28	"	"	"	"		
Blazing Away	25137	3/22/28	"	"	"	"		
A Homemade Man	25323	6/4/28	"	"	"	"		
Listen Children	25462	7/16/28	"	"	"	"		
								$8,653 47
Poor Fish	4317	9/12/27	Edco.	Prod.	Unit	Inc		
The Cry of Winter	4363	10/12/27	"	"	"	"		
Burning Timber	4359	10/10/27	"	"	"	"		
Many Wings	4610	12/12/27	"	"	"	"		
Injun Food	4552	12/20/27	"	"	"	"		
Dog Days	4677	1/30/28	"	"	"	"		
Builders of Bridges	4727	2/15/28	"	"	"	"		
Feline Frolics	4835	3/10/28	"	"	"	"		
Hints on Hunting	4957	4/22/28	"	"	"	"		
A Peculiar Pair of Pups	4980	5/12/28	"	"	"	"		
Thoughts While Fishing	5113	6/25/28	"	"	"	"		
Wild Wool	5258	7/21/28	"	"	"	"		
The Fighting Orphans	5259	8/19/28	"	"	"	"		
								$601 92

SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Date	Issued to	Rentals
Batter Up	24372	8/17/27	Ed. Film Exchanges Inc	
Fox Tales	24472	10/4/27	" " " "	
Sewing Stars	24578	10/27/27	" " " "	
Brunettes Prefer Gentlemen	24765	12/18/27	" " " "	
Red Hot Bullets	24730	11/28/27	" " " "	
Racing Mad	24874	1/8/28	" " " "	
High Strung	24976	1/29/28	" " " "	
His Maiden Voyage	25019	2/26/28	" " " "	
Indiscreet Pete	25079	3/11/28	" " " "	
Kitchen Talent	25209	4/20/28	" " " "	
At It Again	25240	5/7/28	" " " "	
Who's Lyin'	25276	5/10/28	" " " "	
Ladies Preferred	25476	7/18/28	" " " "	
Leaping Luck	25467	7/17/28	" " " "	
Just Dandy	25548	8/20/28	" " " "	
				$16,078 59
The Non-Stop Flight	24426	9/20/27	Pat Sullivan	
Wise Guise	24681	11/1/27	" "	

Film Flam Films	24617	11/ 3/27	"	"	
Switches Witches	24644	11/ 7/27	"	"	
No Fuelin'	24664	11/16/27	"	"	
Daze and Knights	24709	11/28/27	"	"	
Uncle Tom's Crabbin	24710	11/28/27	"	"	
Why and other Whys	24964	12/27/27	"	"	
Hits the Deck	24878	12/19/27	"	"	
Behind in Front	24929	12/12/27	"	"	
The Smoke Scream	24903	1/ 8/28	"	"	
Draggin' the Dragon	25081	2/26/28	"	"	
The Oily Bird	25082	2/ 5/28	"	"	
Ohm Sweet Ohm	25080	2/19/28	"	"	
Japanicky	25139	3/14/28	"	"	
Polly-Ties	25150	3/18/28	"	"	
Sure-Lock Homes	25277	4/15/28	"	"	
Eskimotive	25321	6/ 4/28	"	"	
Arabianties	25416	5/13/28	"	"	
In and Outlaws	25576	7/27/28	"	"	
Outdoor Indore	25465	6/21/28	"	"	
Futuritzy	25577	7/24/28	"	"	
Astronomeous	25623	9/17/28	"	"	
Jungle Bungles	25732	9/18/28	"	"	
The Fast Life	25733	9/18/28	"	"	

$459 82

SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Copyright Date	Copyright Issued to	Rentals
[fol. 25] There It Is	24904	1/ 2/28	Bowers Comedy Corporation	
Say Ah-h	25010	2/19/28	" " "	
Whoozit	25116	4/ 1/28	" " "	
You'll Be Sorry	25213	5/ 7/28	" " "	
Hop Off	25377	6/16/28	" " "	
Goofy Birds	25546	8/12/28	" " "	
				351 82
A Half Pint Hero	24453	9/26/27	Ed. Film Exchanges, Inc	
Some Scout	24661	11/14/27	" " " "	
Hellow Sailor	24799	12/27/27	" " " "	
Sword Points	25040	2/12/28	" " " "	
Listen Sister	25108	3/25/28	" " " "	
Fandango	25151	4/ 6/28	" " " "	
Hectic Days	25324	6/ 4/28	" " " "	
Roaming Romeo	25464	7/16/28	" " " "	
				9,397 47

She's A Boy	24587	10/29/27	Ed. Film Exchanges, Inc	..
Shamrock Alley	24749	10/27/27	" " " "	
Angel Eyes	24905	1/23/28	" " " "	
Chilly Days	24965	2/ 8/28	" " " "	
No Fare	25152	4/ 8/28	" " " "	
Navy Beans	25287	5/17/28	" " " "	
The Gloom Chaser	25349	6/11/28	" " " "	
Kid Hayseed	25491	7/28/28	" " " "	
				12,487 62
Holly Nuts	24529	10/20/27	Futter Productions Inc	..
Back Home	24497	10/10/27	" " "	..
For Men Only	4456	11/16/27	Ed. Film Exchanges, Inc	..
Lovingly Yours	4638	1/16/28	Futter Productions Inc	..
New York's Sweetheart	4609	1/ 1/28	" " "	..
Rubber Necking	4731	2/ 5/28	" " "	..
Mother Bird	4942	3/ 4/28	" " "	..
Penny Postals	25142	4/10/28	" " "	..
All Bear	4979	4/29/28	" " "	..
Just For Art	5063	6/11/28	" " "	..
				1,415 71

Picture	Copyright No.	Copyright Date	Copyright Issued to	Rentals
The Stunt Man	24579	10/27/27	Ed. Film Exchanges, Inc	
Oh What A Man	24728	11/28/27	" " " "	
Dummies	24841	1/ 2/28	Chadwick Productions	
A Simple Sap	25041	2/12/28	" "	
				7,350 75
Up In Arms	24588	10/29/27	Ed. Film Exchanges, Inc	
Kilties	24550	10/24/27	" " " "	
The Little Rube	24705	11/27/27	" " " "	
Cutie	24875	1/15/28	" " " "	
Circus Blues	25138	3/25/28	" " " "	
Rah Rah Rah	25275	5/ 5/28	" " " "	
				5,280 53
Live News	24373	9/ 7/27	Ed. Film Exchanges, Inc	
Scared Silly	24707	11/27/27	" " " "	
Wildcat Valley	24927	1/22/28	" " " "	
Visitors Welcome	25077	3/ 4/28	" " " "	

Slippery Head	25179	4/24/28	"	"	"	"		
Blondes Beware	25411	6/25/28	"	"	"	"		
								7,348 80
Baby Be Good	22140	12/17/25	Ed. Film Exchanges, Inc					
Bachelor's Babies	22242	1/11/26	"	"	"	"		
Sea Scamps	22434	3/ 2/26	"	"	"	"		
Raisin' Cain	22614	4/ 4/26	"	"	"	"		
Bear Cats	22735	5/17/26	"	"	"	"		
Excess Baggage	23016	8/12/26	"	"	"	"		
								501 08
[fol. 25½] Off His Beat	21899	10/13/25	Christie Film Co., Inc					
Hot Doggie	22200	12/30/25	"	"	"	"		
Weak But Willing	22422	2/26/26	"	"	"	"		
Wireless Lizzie	22519	3/ 7/26	"	"	"	"		
Fresh Faces	22712	4/25/26	"	"	"	"		
Hitchin' Up	23369	11/19/26	"	"	"	"		
Watch Out	21868	10/ 3/25	"	"	"	"		
Slippery Feet	22198	12/30/25	"	"	"	"		
Yes Yes Babette	22330	1/26/26	"	"	"	"		
Page Me	22553	2/27/26	"	"	"	"		

Schedule "A" to Bill of Complaint—Continued

Picture	Copyright No.	Copyright Date	Issued to	Rentals
Broken China	22677	4/11/26	Christie Film Co., Inc.	
Till We Eat Again	22812	5/24/26	" " " "	
Soup to Nuts	21846	9/24/25	" " " "	
A Misfit Sailor	22273	11/19/26	" " " "	
A Goofy Gob	22199	12/30/25	" " " "	
My Swedie	22274	1/19/26	" " " "	
A Salty Sap	22433	3/2/26	" " " "	
Run Tin Can	22464	2/21/26	" " " "	
Dancing Daddy	22568	3/28/26	" " " "	
Shore Shy	22711	4/25/26	" " " "	
Papa's Pest	22887	7/8/26	" " " "	
Be Careful	21911	10/19/25	" " " "	
Fair But Foolish	22241	1/11/26	" " " "	
For Sadie's Sake	22329	1/25/26	" " " "	
Who Emma	22554	3/14/26	" " " "	
Gimmie Strength	22734	5/9/26	" " " "	
Chase Yourself	22888	7/8/26	" " " "	

572 13

The Tourist	21845	9 24 25	Ed. F. Ex., Inc	
Cleaning Up	22347	1 2 26	" " " "	
My Stars	22502	3 17 26	" " " "	
Home Cured	22584	3 14 26	Christie Film Co., Inc	
Mr. Cinderella	22710	5 2 26	Ed. F. Ex., Inc	
Honest Injun	22954	7 17 26	" " " "	
				1,151 66
Trifles With Time	21900	11 3 25	Pat Sullivan	
Busts Into Business	21964	11 3 25	" "	
Trips Thru Toyland	22019	11 19 25	" "	
On The Farm	22214	11 4 25	" "	
On The Job	22060	12 2 25	" "	
In the Cold Rush	22191	12 29 25	" "	
In Eats are West	22190	12 29 25	" "	
Tries The Trades	22268	1 14 20	" "	
In The Rainbow's End	22192	12 29 25	" "	
Kept On Walking	22282	1 21 26	" "	
Spots The Spooks	22449	3 5 26	" "	
Flirts With Fate	22432	3 2 26	" "	
In Blunderland	22602	3 9 26	" "	
Fans The Flames	22603	3 21 26	" "	
Laughs It Off	22713	4 17 26	" "	

Picture	Copyright No.	Copyright Date	Issued to	Rentals
Weather's The Weather	22752	4/21/26	Pat Sullivan	..
Uses His Head	22904	7/13/26	" "	
Misses The Cue	22920	7/19/26	" "	
In A Tale of Two Kitties	23408	12/ 9/26	" "	
Scoots Thru Scotland	22921	7/19/26	" "	
Rings the Ringer	22956	7/26/26	" "	
In School Daze	23007	8/ 9/26	" "	
Seeks Solitude	23187	10/ 5/26	" "	
Misses His Swiss	23117	9/15/26	" "	
In Gym Gems	23188	10/ 5/26	" "	
				946 24
The Movies	21901	10 13 25	Ed. F. Ex., Inc	
Framed	22275	1 20 26	" " " "	..
Careful Please	22437	3 2 26	" " " "	..
Nobody's Business	22657	4 4 26	" " " "	..
Nothing Matters	23228	10 19 26	" " " "	..
Here Comes Charlie	22847	6 28 26	" " " "	..
				7,318 29

[fol. 26] Maid in Moracco	22106	12/11/25	Ed. Film Exchanges, Inc.				
The Fighting Dude	22194	12/29/25	"	"	"	"	
Time Flies	22436	3/ 2/26	"	"	"	"	
Fools Luck	22833	6/22/26	"	"	"	"	
His Private Life	22709	5/11/26	"	"	"	"	
							2,102 93
Pleasure Bound	22018	11/19/25	Ed. Film Exchanges, Inc.				
Fair Warning	21866	10/ 1/25	"	"	"	"	
Spot Light	22195	12/29/25	"	"	"	"	
Fire Away	22193	12/29/25	"	"	"	"	
On Edge	22328	1/25/26	"	"	"	"	
Cheap Skates	22196	12/29/25	"	"	"	"	
Live Cowards	22503	3/16/26	"	"	"	"	
Lickety Split	22490	3/16/26	"	"	"	"	
Hold Your Hat	22491	3/16/26	"	"	"	"	
Light Housekeeping	22435	3/ 2/26	"	"	"	"	
Sky Bound	22521	3/24/26	"	"	"	"	
The Tin Ghost	22861	6/18/26	"	"	"	"	
Going Crazy	22708	5/ 9/26	"	"	"	"	
Creeps	22807	5/29/26	"	"	"	"	
Who's My Wife	23034	8/17/26	"	"	"	"	
Who Hit Me	23017	8/12/26	"	"	"	"	

Picture	Copyright No.	Copyright Date	Issued to	Rentals
Solid Gold	23009	8 8 26	Ed. Film Exchanges, Inc.	
Kiss Papa	23077	9 7 26	" " " "	
				6,045 25
Pirates Beware	25654	9 9 28	Ed. Film Exchanges, Inc.	
Fisticuffs	25804	10 26 28	" " " "	
Be My King	25923	12 18 28	" " " "	
Only Me	169	1 20 29	" " " "	
Summer Saps	343	3 17 29	" " " "	
Good Night Nurse	332	4 23 29	" " " "	
Battling Sister	447	6 2 29	" " " "	
Joy Land	628	7 27 29	" " " "	
				5,258 73
Girlies Behave	25627	9 20 28	Ed. Film Exchanges, Inc.	
The Quiet Worker	25824	9 4 28	" " " "	
Wives Won't Weaken	25988	12 6 28	" " " "	
Beauties Beware	135	1 27 29	" " " "	

Wise Wimmin	342	3 31 29	"	"	"	"	
Only Her Husband	371	5 13 29	"	"	"	"	
Studio Pests	759	10 14 29	"	"	"	"	
Fake Flappers	668	8 27 29	"	"	"	"	
							442 50
Call Your Shots	25621	9 17 28	Ed. Film Exchanges, Inc.				
Polar Perils	25729	9 30 28	"	"	"	"	
Stage Frights	25825	10 21 28	"	"	"	"	
Hold That Monkey	25863	11 26 28	"	"	"	"	
Hot or Cold	25990	12 12 28	"	"	"	"	
Social Prestige	25924	12 17 28	"	"	"	"	
Going Places	346	3 13 29	"	"	"	"	
Whoopee Boys	197	2 10 29	"	"	"	"	
Smart Steppers	269	3 3 29	"	"	"	"	
Parlor Pests	330	3 24 29	"	"	"	"	
Howling Hollywood	311	4 18 29	"	"	"	"	
Those Two Boys	387	5 5 29	"	"	"	"	
Hot Times	491	6 23 29	"	"	"	"	
What A Day	454	6 10 29	"	"	"	"	
Top Speed	610	7 17 29	"	"	"	"	
Honeymoonies	639	7 28 29	"	"	"	"	
							1,274 00

SCHEDULE "A" TO BILL OF COMPLAINT—Continued

Picture	Copyright No.	Copyright Date	Issued to	Rentals
[fol. 27] Companionate Service	25731	9/17/28	Ed. Film Exchanges, Inc.	
Misplaced Husbands	25991	12/24/28	" " " "	
Auntie's Mistake	268	2/17/29	" " " "	
				150.00
Wedded Blisters	25888	11/24/28	Ed. Film Exchanges, Inc.	
Making Whoopee	25802	10/27/28	" " " "	
Husbands Must Play	134	1/16/29	" " " "	
				375.00
Hot Luck	25622	9/17/28	Ed. Film Exchanges, Inc.	
Come To Papa	25730	10/14/28	" " " "	
Follow Teacher	25987	12/16/28	" " " "	
The Fixer	164	2/ 9/29	" " " "	
Ginger Snaps	270	3/ 2/29	" " " "	
Joy Tonic	372	5/ 5/29	" " " "	
Helter Skelter	455	6/ 9/29	" " " "	
Sole Support	669	8/27/29	" " " "	
				307.95

EXHIBIT "B" TO BILL OF COMPLAINT

FORM 3 FT 6-15-29-250,000 (3-4274) Page 1

EVERY CORPORATION INCORPORATED PRIOR TO NOV. 1, 1929, MUST REPORT

(29) Every corporation incorporated prior to July 1, 1929, must make this report. (See EXCEPTION, page 4, under Special Instructions)

FRANCHISE TAX ON BUSINESS CORPORATIONS

TO DEPARTMENT OF TAXATION AND FINANCE, ALBANY, N. Y.

This report is DUE JULY 1, 1929. Corporations filing reports with the United States Treasury Department after June 1, 1929, for a fiscal year ending before July 1, 1929, must file this report within thirty days after such filing and give date of filing federal report.

The report must cover the conditions and the entire net income for the corporation's last fiscal year ending on or before June 30, 1929.

NEW CORPORATIONS see special instructions on page four (4).

DO NOT WRITE IN THIS SPACE

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EDUCATIONAL FILMS CORPORATION OF AMERICA
(Name of corporation) (Exact corporate title)

1501 BROADWAY NEW YORK N.Y
(Mail address) (Full details for delivery of blanks and notices of assessment must appear above)

(1) Organized May, 1925, under the Laws of N.Y. (2) Began business in New York ....., 19.....

(3) If not incorporated under the laws of New York, has it been legally authorized to do business in New York State? .....

(4) Authorized capital stock, $ 200000.00 (5) Amount of average indebtedness for year, $ 14959385
(Exclusive of capital stock)

Answers to Item 6 below must show issued and subscribed stock as of June 30, 1929.

(6) Number of shares	Par value per share	Total par value	(6-a) Dividends paid during fiscal or calendar year
Common 15000	$ 10.00	$ 150000.00	$ .....
Preferred 5000	$ 10.00	$ 50000.00	$ 198500 -
Non par value None	Am't paid in on same	$	$ .....

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T 2%

Any capital stock issued or subscribed after June 30, 1929 and prior to November 1, 1929 must be reported to the Department of Taxation and Finance, Corporation Bureau, within 30 days after November 1st, 1929.

(7) If your fiscal year has been changed since July 1, 1927, how? None

(8) ENTIRE NET INCOME FOR THE ~~YEAR ENDING DECEMBER 31, 1928~~ or the FISCAL YEAR (PERIOD) COMMENCING July 1, 1928 AND ENDING June 30 1929, as shown by its report to the UNITED STATES TREASURY DEPARTMENT $ 231377.94

(Note: Above answer must agree with report to Federal Government for a period ending between July 1, 1928 and June 30, 1929).

(8-a) State entire amount of salary and other compensation paid to all appointed or elected officers and to all stockholders owning in excess of 5% of issued stock ..... $ 15000.00

(9) Dividends received from corporations, not included in (8) ..... $ None

(10) State amount of interest received from Federal, state, municipal, or other obligations, not included in item (8) $ None

(11) *TOTAL GROSS INCOME* reported at item 11 on Federal Income Tax Return for the above period.. $ 585163.35

(11-a) DEDUCTIONS (as shown on federal report)

(a) Compensation of officers	$ 15000.00	(f) Losses by fire, storm	$ .....
(b) Rent on business property	$ 7808.56	(g) Bad debts	$ .....
(c) Repairs	$ 327.00	(h) Depreciation	$ 51.60
(d) Interest	$	(j) Depletion	$ .....
(e) Taxes (Item 16 Fed. Rpt.)	$ 10486.13		

(k) Other deductions not shown above must be shown in detail ON SHEET ATTACHED ..... $ 175112.18

TOTAL DEDUCTIONS shown above ..... $ 153790.41

Item 11 above less item 11-a above ..... $ 231377.94

(12) If the entire net income as first returned was changed by the Federal Government, state the amount of such entire net income as finally determined for the year ending (If no change made insert the word "None")

1919, $		1923, $	
1920, $		1924, $	
1921, $		June 30 1925, $	130379 10
1922, $		1926, $	None

INSERT MONTH AND DAY

(13) If a corporation is not organized under the laws of any state within the United States it should return its entire net income, wherever earned, $ .....

...d in (8) is incorrect, state the amount claimed to be correct. $ 68783.94 (See Attached Explanation)

THIS REPORT MUST BE SWORN TO ON PAGE FOUR

ALL QUESTIONS ON THIS BLANK MUST BE ANSWERED

year ending before July 1, 1929, must file this report within thirty days after such filing and give date of filing federal report.
The report must cover the conditions and the entire net income for the corporation's last fiscal year ending on or before June 30, 1929.

NEW CORPORATIONS see special instructions on page four (4).

DO NOT WRITE IN THIS SPACE

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DO NOT WRITE IN THIS SPACE

EDUCATIONAL FILMS CORPORATION OF AMERICA
(Name of corporation) (Exact corporate title)

1501 BROADWAY NEW YORK N.Y.
(Mail address) (Full details for delivery of blanks and notices of assessment must appear above)

(1) Organized May, 1925, under the Laws of N.Y. (2) Began business in New York, 19

(3) If not incorporated under the laws of New York, has it been legally authorized to do business in New York State?

(4) Authorized capital stock, $200000.00 (5) Amount of average indebtedness for year, $1495913.85 (Exclusive of capital stock)

Answers to item 6 below must show issued and subscribed stock as of June 30, 1929.

(6) Number of shares	Par value per share	Total par value	(6-a) Dividends paid during fiscal or calendar year
Common 15000	$10.00	$150000.00	$
Preferred 5000	$10.00	$ 50000.00	$198500.-
Non par value none	Am't paid in on same	$	$

B
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T 2%

Any capital stock issued or subscribed after June 30, 1929 and prior to November 1, 1929 must be reported to the Department of Taxation and Finance, Corporation Bureau, within 30 days after November 1st, 1929.

(7) If your fiscal year has been changed since July 1, 1927, how? none

(8) ENTIRE NET INCOME FOR THE ~~YEAR ENDING DECEMBER 31, 1928~~ or the FISCAL YEAR (PERIOD) COMMENCING July 1, 1928 AND ENDING June 30 1929, as shown by its report to the UNITED STATES TREASURY DEPARTMENT $ 231377.94

(Note: Above answer must agree with report to Federal Government for a period ending between July 1, 1928 and June 30, 1929).

(8-a) State entire amount of salary and other compensation paid to all appointed or elected officers and to all stockholders owning in excess of 5% of issued stock ..... $ 15000.00

(9) Dividends received from corporations, not included in (8) ..... $ none

(10) State amount of interest received from Federal, state, municipal, or other obligations, not included in item (8) $ none

(11) *TOTAL GROSS INCOME* reported at item 11 on Federal Income Tax Return for the above period.. $ 585163.35

(11-a) DEDUCTIONS (as shown on federal report)

(a) Compensation of officers	$ 15000.00	(f) Losses by fire, storm	$
(b) Rent on business property	$ 2808.56	(g) Bad debts	$
(c) Repairs	$ 327.00	(h) Depreciation	$ 51.60
(d) Interest	$	(j) Depletion	$
(e) Taxes (Item 16 Fed. Rpt.)	$ 10486.13		

(k) Other deductions not shown above must be shown in detail ON SHEET ATTACHED ..... $ 175112.18

TOTAL DEDUCTIONS shown above ..... $ 153790.41

Item 11 above less item 11-a above ..... $ 231377.94

THIS REPORT MUST BE SWORN TO ON PAGE FOUR

ALL QUESTIONS ON THIS BLANK MUST BE ANSWERED

(12) If the entire net income as first returned was changed by the Federal Government, state the amount of such entire net income as finally determined for the year ending (If no change made insert the word "None")

1919, $		1923, $	none
1920, $	none	1924, $	
1921, $		June 30 1925, $	130379.10
1922, $		" 1926, $	none

INSERT MONTH AND DAY

(13) If a corporation is not organized under the laws of any state within the United States it should return its entire net income, wherever earned, $ none

(14) If the amount reported in (8) is inaccurate state the amount claimed to be correct, $ 68789.94 (See Attached Explanation)

(15) Nature of business and how transacted Distributing of Motion Picture Films

(16) Place, street and number where business is conducted 1501 Broadway New York

(17) State the city or town, street number and state where the company maintained any permanent store, warehouse, factory or other place of continuous business outside the State of New York during the year none

(18) Any corporation EXCEPT ONE HAVING STOCK WITHOUT PAR VALUE, may omit the segregation of assets on page 2 *only* by signing the following consent:

I AM AUTHORIZED by the Board of Directors of this corporation to consent and I do hereby consent that said corporation be taxed upon its entire net income at 4½ per cent or as otherwise provided by law.

Do not sign consent unless taxable by the State of New York on entire income or entire issued capital stock.

28

(19) Does this corporation own a majority of the stock of another or other corporations? No Give names of e

(20) Is a majority of the stock of this corporation owned by another corporation? Yes If so, by what other? Educational Pictures Inc

(21) Did this corporation file a consolidated report with the United States Treasury Department? No

(21-a) If so, state amount of consolidated net income, $

(22) Were its income and assets included in the consolidated report of another corporation? Yes

If so, name of corporation reporting the consolidated net income Educational Pictures Inc

and amount of net income so reported, $ X27,39

(23) Give the names and net income or loss attributable to each corporation, including the reporting corporation, included in the consolidated report, and specify whether gain or loss

See Schedule Attached $

$ $

$ $

(24) Has this corporation since January 1, 1917, either directly or indirectly, acquired by merger, consolidation or purchase, the major part of the assets or the franchise of any other corporation or corporations? No

Has it merged or consolidated any other corporation or corporations? No

If so, give name of each corporation and date of acquisition, merger or consolidation

(25) Has the entire net income of any corporation which has been acquired by, or merged or consolidated with this company been changed by the Federal Government, and not heretofore reported to the State Tax Department? (Answer "Yes" or "No")

If changed, reduce such changes to affidavit form and file with this report.

SEGREGATION OF ASSETS NOT INCLUDING THOSE OF ANY OTHER CORPORATION

(The segregation must be based on same fiscal or calendar year as report)

Read: The following segregations MUST be made by all corporations having stock without par value and all corporations which have not signed consent (18)

TOTAL SEGREGATED ASSETS WHEREVER LOCATED

(26-a) Average total monthly value for the fiscal or calendar year of bills and accounts receivable arising from personal property sold by the corporation from merchandise manufactured by it within and without this state	$
(26-b) Average total monthly value for the fiscal or calendar year of bills and accounts receivable arising from the purchase, or sale of, or trading in, personal property, or from services performed by the corporation, its officers or agents, excluding those arising in any way from advances or loans	$
(26-c) ‡Average monthly value of all its real property wherever located (actual value)	$
(26-d) ‡Average monthly actual value of all machinery and fixtures wherever located	$
(26-e) ‡Average monthly actual value of all other tangible personal property wherever located	$
(26-f) §Average total *actual* value of shares of stocks of other corporations owned by this corporation (notes, bonds, cash and evidences of debt must not be included). (Note: List of shares must be made on separate sheet and show corporate name, number of shares held, par value per share, actual value.)	$
Total	$
(26-g) Does the segregation above made include assets of any subsidiary or other corporation?	

ADDITIONAL INFORMATION — To be used to determine fees under § 181 of Tax Law and one mill tax.

(27-a) Average monthly bank and cash balance during the year	$
(27-b) Average value of bills and accounts receivable during the year arising from advances or loans and not included above	$
(27-c) Average value of bonds, loans on call and other financial securities wherever held, used or employed during the year (not including shares of stock)	$

ASSETS SEGREGATED TO NEW YORK STATE ONLY

(28-a) Average monthly value of bills and accounts receivable arising from personal property sold by the corporation from merchandise manufactured by it within this State	$
(28-b) Average monthly value of bills and accounts receivable arising from personal property owned by the corporation and not manufactured by it within this State but sold by it or its agents and located within the State at the time of the receipt of the order	$
(28-c) Average monthly value of bills and accounts receivable arising from the purchase or sale of, or trading in, goods, wares or merchandise not located at any place at which the corporation conducted a permanent or continuous business without the State and where the bills and accounts receivable arose from orders received or accepted by any officer or agent, or at any place of business, in this State	$
(28-d) Average monthly value of bills and accounts receivable arising from services performed by any officer, agent or representative of the corporation connected with, sent from, or reporting, either directly or indirectly, to any officer located in this State or at any office located, owned, rented or occupied in this State	$
(28-e) ‡Average monthly value of its real property within this State as detailed in this report (actual value)	$
(28-f) ‡Average monthly actual value of all machinery and fixtures in New York State	$
(28-g) ‡Average monthly actual value of all other tangible personal property in New York State	$
(28-h) §Average total *actual* value of shares of stocks of other corporations owned by it and allocated to this State by rule below	$
Total	$

(21-a) If so, state amount of consolidated net income, $ _____

(22) Were its income and assets included in the consolidated report of another corporation? Yes

If so, name of corporation reporting the consolidated net income Educational Pictures Inc

and amount of net income so reported, $ 207.39

(23) Give the names and net income or loss attributable to each corporation, including the reporting corporation, included in the consolidated report, and specify whether gain or loss

See Schedule Attached $ _____

_____ $ _____

_____ $ _____

(24) Has this corporation since January 1, 1917, either directly or indirectly, acquired by merger, consolidation or purchase, the major part of the assets or the franchise of any other corporation or corporations? No

Has it merged or consolidated any other corporation or corporations? No

If so, give name of each corporation and date of acquisition, merger or consolidation _____

(25) Has the entire net income of any corporation which has been acquired by, or merged or consolidated with this company been changed by the Federal Government, and not heretofore reported to the State Tax Department? _____ (Answer "Yes" or "No")

If changed, reduce such changes to affidavit form and file with this report.

SEGREGATION OF ASSETS NOT INCLUDING THOSE OF ANY OTHER CORPORATION

(This segregation must be based on same fiscal or calendar year as report)

Read: The following segregations MUST be made by all corporations having stock without par value and all corporations which have not signed consent (18)

TOTAL SEGREGATED ASSETS WHEREVER LOCATED

(26-a) Average total monthly value for the fiscal or calendar year of bills and accounts receivable arising from personal property sold by the corporation from merchandise manufactured by it within and without this state	$
(26-b) Average total monthly value for the fiscal or calendar year of bills and accounts receivable arising from the purchase, or sale of, or trading in, personal property, or from services performed by the corporation, its officers or agents, excluding those arising in any way from advances or loans	$
(26-c) ‡Average monthly value of all its real property wherever located (actual value)	$
(26-d) ‡Average monthly actual value of all machinery and fixtures wherever located	$
(26-e) ‡Average monthly actual value of all other tangible personal property wherever located	$
(26-f) §Average total *actual* value of shares of stocks of other corporations owned by this corporation (notes, bonds, cash and evidences of debt must not be included). (Note: List of shares must be made on separate sheet and show corporate name, number of shares held, par value per share, actual value.)	$
Total	$
(26-g) Does the segregation above made include assets of any subsidiary or other corporation?	

ADDITIONAL INFORMATION — To be used to determine fees under § 181 of Tax Law and one mill tax.

(27-a) Average monthly bank and cash balance during the year	$
(27-b) Average value of bills and accounts receivable during the year arising from advances or loans and not included above	$
(27-c) Average value of bonds, loans on call and other financial securities wherever held, used or employed during the year (not including shares of stock)	$

ASSETS SEGREGATED TO NEW YORK STATE ONLY

(28-a) Average monthly value of bills and accounts receivable arising from personal property sold by the corporation from merchandise manufactured by it within this State	$
(28-b) Average monthly value of bills and accounts receivable arising from personal property owned by the corporation and not manufactured by it within this State but sold by it or its agents and located within the State at the time of the receipt of the order	$
(28-c) Average monthly value of bills and accounts receivable arising from the purchase or sale of, or trading in, goods, wares or merchandise not located at any place at which the corporation conducted a permanent or continuous business without the State and where the bills and accounts receivable arose from orders received or accepted by any officer or agent, or at any place of business, in this State	$
(28-d) Average monthly value of bills and accounts receivable arising from services performed by any officer, agent or representative of the corporation connected with, sent from, or reporting, either directly or indirectly, to any officer located in this State or at any office located, owned, rented or occupied in this State	$
(28-e) ‡Average monthly value of its real property within this State as detailed in this report (actual value)	$
(28-f) ‡Average monthly actual value of all machinery and fixtures in New York State	$
(28-g) ‡Average monthly actual value of all other tangible personal property in New York State	$
(28-h) §Average total *actual* value of shares of stocks of other corporations owned by it and allocated to this State by rule below	$
Total	$

ADDITIONAL INFORMATION — To be used to determine fees under § 181 of Tax Law and one mill tax.

(29-a) Average monthly bank and cash balance in New York State during the year	$
(29-b) *Average value of all bills and accounts receivable in New York State during the year	$
(29-c) Average value of bonds, loans on call and other financial securities held, used or employed in New York during the year (not including shares of stock)	$

* All bills and accounts receivable due for goods located in New York State at the time of sale or receivable by the corporation at an office within New York State and not already included in (a), (b), (c), and (d). In assets segregated to New York State, must be included in this item.

‡ Real property and tangible personal property shall be taken at its actual value where located.

§ The value of shares of stock of another corporation owned by a corporation liable hereunder shall for purposes of allocation of assets be apportioned in and out of the State in accordance with the value of the physical property in and out of the State representing such share stock.

OFFICERS SCHEDULE FOR THE FISCAL OR CALENDAR YEAR COVERED BY THIS REPORT

Name and Residence	Title	Salary	All other Compensation	Number Shares Held	
				Preferred	Common
C. W. Hammes	Pres	5000.00			None
Bruno Meyers	Vice Pres	10000.00			None
		15000.-			

MUST BE ANSWERED

Are any of the above named officers also officers in any other corporation? .....
If so, add rider, showing in what company, title, and salary or other compensation received from such other companies during fiscal or calendar year covered by this report.

(31) Was any stock, owned during the period of this report by an elected or appointed officer, transferred or assigned to any relative or agent? ..... If so, by whom and to whom was such stock assigned and what relationship to assignee?

1. From ..... To .....
2. " ..... " .....
3. " ..... " .....

(31-a) 1. In what amount $ ..... Number of shares .....
2. " " " $ ..... " " " .....
3. " " " $ ..... " " " .....

(32) Schedule for stockholders (not including any in officers' schedule) owning more than five percent of issued capital stock.

Name in full	Total compensation of every character received from this corporation
	$

(33) THE FOLLOWING INFORMATION REQUIRED BASED ON FISCAL OR CALENDAR YEAR

(A) Gross sales from trading or manufacturing, less returns and allowances ..... $ None
(B) Gross profit from trading and manufacturing ..... $ None
(C) ~~Gross profit~~ from other than trading and manufacturing ~~including Mayer's~~ as from Copyrights $ 385163.35
(D) Entire assets ..... $ 2177058.05
(E) Entire liabilities, excluding capital stock and surplus ..... $ 1825194.56
(F) Net worth as shown by balance sheet at end of calendar or fiscal year ..... $ 351863.49
(G) Number of people employed, average 10
(H) What was the total par value of all: (1) Federal bonds $ None; (2) Federal Farm Loans $ None;
(3) State and Municipal Bonds $ None; (4) All other obligations shown in your return to the Federal Government and exempt from Federal Income Tax $ None
(If none are held, insert the word "None.")

(34) Average price at which this corporation's stocks sold during the year		High	Low
	Common		
	Preferred	no sales	
	No par		

(35) How many shares of the corporation's stock were transferred on its books during the period covered by this report? .....

MUST BE ANSWERED

(36) **Does this corporation use or occupy any part of the real property of another corporation which it owns or controls, either directly or indirectly?** No
(Answer "Yes" or "No")

(37) **If the answer is "Yes" name the corporation holding such real estate** .....

(38) **Does this company use or occupy any part of the real property of another corporation which either directly or indirectly owns or holds a controlling interest in this corporation?** No
(Answer "Yes" or "No")

(39) **If the answer is "Yes" name the corporation holding such real estate** .....

Irma Meyer	Vice Pres	10000 00			None
		15000 -			

MUST BE ANSWERED

Are any of the above named officers also officers in any other corporation?.....
If so, add rider, showing in what company, title, and salary or other compensation received from such other companies during fiscal or calendar year covered by this report.

(31) Was any stock, owned during the period of this report by an elected or appointed officer, transferred or assigned to any relative or agent?..... If so, by whom and to whom was such stock assigned and what relationship to assignee?

1. From..... To.....
2. " ..... "
3. " ..... "

(31-a) 1. In what amount $..... Number of shares.....
2. " " " $..... " " "
3. " " " $..... " " "

(32) Schedule for stockholders (not including any in officers' schedule) owning more than five percent of issued capital stock.

Name in full	Total compensation of every character received from this corporation
	$

(33) THE FOLLOWING INFORMATION REQUIRED BASED ON FISCAL OR CALENDAR YEAR

(A) Gross sales from trading or manufacturing, less returns and allowances..... $ None
(B) Gross profit from trading and manufacturing..... $ None
(C) ~~Gross profit~~ from other than trading and manufacturing including Royalty from Copyrights $ 385163 35
(D) Entire assets..... $ 2177058 05
(E) Entire liabilities, excluding capital stock and surplus..... $ 1835194 56
(F) Net worth as shown by balance sheet at end of calendar or fiscal year..... $ 341863 49
(G) Number of people employed, average 10
(H) What was the total par value of all: (1) Federal bonds $ None; (2) Federal Farm Loans $ None;
(3) State and Municipal Bonds $ None; (4) All other obligations shown in your return to the Federal Government and exempt from Federal Income Tax $ None
(If none are held, insert the word "None.")

(34) Average price at which this corporation's stocks sold during the year		High	Low
	Common		
	Preferred no sales		
	No par		

(35) How many shares of the corporation's stock were transferred on its books during the period covered by this report?.....

MUST BE ANSWERED

(36) **Does this corporation use or occupy any part of the real property of another corporation which it owns or controls, either directly or indirectly?** No (Answer "Yes" or "No")

(37) **If the answer is "Yes" name the corporation holding such real estate**.....

(38) **Does this company use or occupy any part of the real property of another corporation which either directly or indirectly owns or holds a controlling interest in this corporation?** No (Answer "Yes" or "No")

(39) **If the answer is "Yes" name the corporation holding such real estate**.....

SPECIAL INSTRUCTIONS TO NEW CORPORATIONS

The Commission will permit corporations subject to taxation under Article 9-a of the tax law, organized between January 1st and July 1st, 1929, to omit filing report on form 3-IT due July 1st, 1929, conditioned that such corporations file a report on form 60 C. T. during the month of November, 1929.

Corporations organized between June 30th and November 1st, 1929 will be required to file a report on form 60 C. T.

This form will be mailed about November 1st, and the report must be filed not later than November 30th, 1929.

30

(40)

DISTRIBUTION SCHEDULE (Must be completed)

Do not confuse the political subdivisions "incorporated village" and "town."

Names of hamlets or postoffices other than incorporated villages are *not* wanted.

Schedule of Real and *Tangible* Personal Property in New York State
by Cities, Towns and Incorporated Villages

City of	County of	Personal actual value	Real estate actual value	Real estate assessed value
New York	New York	$ 201 40	$	$

Town of	Incorporated village of	County of			

(If more space is needed add a parter)

PENALTIES

Any OFFICER making a fraudulent report becomes personally liable to a FINE OF $1000.

The Law provides a PENALTY of not more than $5000 for neglect or refusal to file this report.

FOR FAILING, THROUGH NEGLIGENCE, TO PAY TAX WHEN DUE:

Ten per cent of the tax due and unpaid plus interest at the rate of 1 per cent per month during the period in which it remains unpaid.

INFORMATION

The word "average" wherever it appears in this report has its plain, ordinary significance; neither the highest amount nor the lowest, but the mean.

In making report every space must be used except where the blank states that the spaces are not to be filled. Wherever no figures are to be inserted the word "none" should be inserted.

If there is no net income to be returned in answer to paragraph (8) insert the word "deficit" and state the amount thereof.

ALL CORPORATIONS MUST MAKE THIS REPORT EXCEPT THE FOLLOWING:

(1) Real estate corporations wholly engaged in the purchase and sale of and holding title to real estate for themselves (this does not include so-called real estate companies having leasehold interests only, except as specified in subd. 2 below, or real estate agents or brokers).

(2) Corporations engaged in the business of subleasing real property held under a leasehold for a term of twenty years or more, by the terms of which the taxes on the real property are paid by the lessee corporation as part of the consideration for the leasehold.

(3) Corporations whose sole business consists of holding stocks of other corporations for the purpose of controlling the management and affairs of such other corporations, except such as are specifically subject to report under the provisions of subdivision nine of section two hundred and eleven of the tax law.

(4) Farmers', fruit growers', and other like agricultural corporations organized and operated on a co-operative basis for the purposes expressed in and as provided under the co-operative corporations law of the state of New York.

(5) Transportation, transmission, heating, lighting and power corporations, insurance companies, savings banks and other corporations taxable under Sections 184 to 189 of the tax law, inclusive.

(6) Corporations taxable under Articles 9-B and 9-C of the tax law.

Simply to write "out of business," "never began business," "dead," et ceters, is not a sufficient compliance to relieve from the penal provisions of the statute.

THIS TAX IS DUE AND PAYABLE ON OR BEFORE JANUARY 1, 1930, OR WITHIN 30 DAYS OF BILLING DATE IF BILLED AFTER DECEMBER 3, 1929. DO NOT SEND CHECK WITH REPORT.

AFFIDAVIT OF PRESIDENT, VICE-PRESIDENT, SECRETARY OR TREASURER

STATE OF NEW YORK,
County of New York } ss.:

On this 11th day of October A. D. 1929, personally appeared before me, a Notary Public in and for the County of David L. Hualle, of the above named company who, being duly sworn according to law, did depose and say that the foregoing report is just, true and correct and that it includes a true statement of the annual net income of said company for the year.

David L. Hualle

City of	County of	Assessed actual value	Assessed actual value	Assessed assessed value
New York	New York	$ 701 440		$

Town of	Incorporated village of	County of					

(If more space is needed add a paster)

PENALTIES

Any OFFICER making a fraudulent report becomes personally liable to a FINE OF $1000.

The Law provides a PENALTY of not more than $5000 for neglect or refusal to file this report.

FOR FAILING, THROUGH NEGLIGENCE, TO PAY TAX WHEN DUE:

Ten per cent of the tax due and unpaid plus interest at the rate of 1 per cent per month during the period in which it remains unpaid.

INFORMATION

The word "average" wherever it appears in this report has its plain, ordinary significance, neither the highest amount nor the lowest, but the mean.

In making report every space must be used except where the blank states that the spaces are not to be filled. Wherever no figures are to be inserted the word "none" should be inserted.

If there is no net income to be returned in answer to paragraph (8) insert the word "deficit" and state the amount thereof.

ALL CORPORATIONS MUST MAKE THIS REPORT EXCEPT THE FOLLOWING:

(1) Real estate corporations wholly engaged in the purchase and sale of and holding title to real estate for themselves (this does not include so-called real estate companies having leasehold interests only, except as specified in subd. 2 below, or real estate agents or brokers).

(2) Corporations engaged in the business of subleasing real property held under a leasehold for a term of twenty years or more, by the terms of which the taxes on the real property are paid by the lessee corporation as part of the consideration for the leasehold.

(3) Corporations whose sole business consists of holding stocks of other corporations for the purpose of controlling the management and affairs of such other corporations, except such as are specifically subject to report under the provisions of subdivision nine of section two hundred and eleven of the tax law.

(4) Farmers', fruit growers', and other like agricultural corporations organized and operated on a co-operative basis for the purposes expressed in and as provided under the co-operative corporations law of the state of New York.

(5) Transportation, transmission, heating, lighting and power corporations, insurance companies, savings banks and other corporations taxable under Sections 184 to 189 of the tax law, inclusive.

(6) Corporations taxable under Articles 9-B and 9-C of the tax law.

Simply to write "out of business," "never began business," "dead," et cetera, is not a sufficient compliance to relieve from the penal provisions of the statute.

THIS TAX IS DUE AND PAYABLE ON OR BEFORE JANUARY 1, 1930 OR WITHIN 30 DAYS OF BILLING DATE IF BILLED AFTER DECEMBER 3, 1929. DO NOT SEND CHECK WITH REPORT.

AFFIDAVIT OF PRESIDENT, VICE-PRESIDENT, SECRETARY OR TREASURER

STATE OF NEW YORK,
County of New York } ss:

On this 11th day of October A. D. 1929, personally appeared before me, a Notary Public in and for the County of Dana L. Hualla, of the above named company who, being duly sworn according to law, did depose and say that the foregoing report is just, true and correct and that it includes a true statement of the annual net income of said company for the year.

Dana L. Hualla

Treasurer
(Official title)

Sworn to before me the day and year aforesaid.

Bernard J. Kearney
Notary Public

Balto's Race To Nome	21518	6/ 1/25	Sol. Lessor		
					539 97
Zip! Boom! Bang!	355	4/17/29	Ed. Film Exchanges, Inc.		
					1,303 69
The Lion's Roar	25989	12/ 9/28	Mack Sennett Inc		
The Old Barn	345	5/ 1/29	" " "		
Broadway Blues	344	5/ 1/29	" " "		
The Bride's Relations	295	4/10/29	" " "		
Whirls and Girls	318	3/24/29	" " "		
The Bee's Buzz	373	5/15/29	" " "		
The Big Palooka	609	8/16/29	" " "		
Girl Crazy	623	7/30/29	" " "		
The Barber's Daughter	631	7/26/29	" " "		
The Constabule	712	9/24/29	" " "		
The Lunkhead	775	9/19/29	" " "		
The Golfers	1007	11/30/29	" " "		
A Hollywood Star	841	10/13/29	" " "		
Clancy At The Bat	958	12/ 3/29	" " "		
The New Half Back	972	11/24/29	" " "		
Uppercutt O'Brien	987	1/ 6/30	" " "		
					382 50
			Total		$162,588 98

(Here follow four pages of Exhibit B, side folios 28, 29, 30, and 31)

6—350

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[fol. 32] SCHEDULE 11-K

Year 1929, New York

Educational Films Corporation of America

General Expenses

Salaries	$15,000 68
Shipping Expense	1,500 97
Telephone and Telegraph	216.48
Selling Expense	3,720 98
Postage	12 53
Insurance	4,635 60
Legal Expense	742 46
London Office Expenses	3,000 00
Commissions	91,392 99
Vocafilm Expense	500.00
Directors' Fees	800 00
Miscellaneous	2,827 96
Office Supplies	3.55
Projection Room Expense	65 48
Storage	1,697 50
	$125,117 18

[fol. 33] Educational Films Corporation of America

Explanation of Item 14

The Company's Net Income as shown by its report to the United States Treasury Department (Item 8) is inapplicable and hence inaccurate for the purposes of the New York Franchise Tax, in that said Net Income was computed by including in the computation of the Gross Income the sum of $162,588.98, consisting of royalties, received by the Company on copyrights owned by it or its affiliated Companies and granted by the United States Government, which Royalty Income was not and is not subject to tax and may not be used as a measure of any tax purporting to be a Corporate Franchise Tax based on or measured by Income, under the Constitution of the United States and decisions of the United States Supreme

Court. The figure set forth in Item 14, viz $68,783.96 is therefore a corrected Net Income resulting from the exclusion from Gross Income of said Royalty Income.

[fol. 34] SCHEDULE 23

Year 1929, New York

Educational Films Corporation of America

Net Income of Each Corporation Included in the Consolidated Report

Educational Pictures, Inc	$10,528 56	
Educational Films Corporation of America	231,372 94	
Coronet Films Corporation	3,176 43	loss
Far East Film Corporation	20,284 15	
Educational Film Exchanges, Inc	31 88	
Educational Film Exchange of Atlanta, Inc.	19,388 04	loss
Educational Film Company of Eastern Penna., Inc.	6,956.50	"
Educational Film Exchange of Illinois, Inc.	15,906 15	"
Educational Film Exchange of Indiana, Inc.	6,774 00	
Educational Film Exchange of Iowa, Inc.	22,937 55	
Educational Film Exchange of Kentucky-Tennessee, Inc.	3,733 47	
Educational Film Exchange of Louisiana, Inc.	6,551 32	loss
The Educational Film Exchange of Michigan, Inc.	4,271 59	
Educational Film Exchange, Inc., of Pittsburgh	7,433 66	loss
Educational Film Exchange, Inc., of Missouri	9,181 62	"
Educational Film Exchange of Minnesota, Inc.	12,526 07	"
Educational Film Exchange of Northern California, Inc.	6,939 33	
Educational Film Exchange of Southern California, Inc	11,621 59	

Educational Film Exchange of Seattle, Inc.	22,780 80	
Educational Film Exchange of Texas, Inc.	5,237 62	loss
Educational Film Exchange of Wisconsin, Inc.	478 93	
Inter-Mountain Educational Film Exchange, Inc	11,999 67	loss
Mid-West Educational Film Exchange, Inc.	16,960 09	"
New York Exchange for Educational Films, Inc	71,850 08	"
The Ohio Exchange for Educational Films Co., Inc	7,041 45	"
	$2,027 39	loss

[fol. 35] In United States District Court

[Title omitted]

Affidavit of Dario L. Faralla

Southern District of New York,
City, County and State of New York, ss:

Dario L. Faralla, being duly sworn upon his oath deposes and says:

I am the Treasurer of Educational Films Corporation of America. As such treasurer, I verified, on the 11th day of October, 1929, the report of said corporation to the Department of Taxation and Finance with respect to its net income for the fiscal year ending June 30, 1929, copy of which is annexed to the bill of complaint herein as Exhibit "B" thereof and the facts therein stated are true to the best of deponent's knowledge and belief.

The plaintiff corporation is, and was during the said period, engaged in business as distributor and licensor of [fol. 36] motion picture productions copyrighted under the laws of the United States, and was the owner of several copyrights which are described by date, name and number in Schedule "A" annexed to said bill of complaint.

As indicated in said Schedule "A", certain of said copyrights are and were during said period held in the name of

said plaintiff corporation, and others were held in the name of other corporations as set forth in said schedule, including Educational Film Exchanges Inc., White Productions Inc., Robert C. Bruce, Edco Production Unit Inc. and Bowers Comedy Corporation, affiliated with said plaintiff corporation. All of said copyrights, however, whether or not standing in the name of plaintiff corporation are and were during the period aforesaid owned by plaintiff corporation, the latter having advanced and paid the costs of production thereof and having exclusive control and disposition thereof, and being entitled to all the income therefrom except certain agreed commissions and percentages paid in certain cases to corporations handling the production thereof upon plaintiff's order and at plaintiff's expense.

Plaintiff's gross income during said period, to the amount of $162,588.98, consisted of royalties received by plaintiff from said copyrights under socalled license contracts entered into between plaintiff and various exhibitors of motion pictures, whereby plaintiff, in consideration of the payment of said royalties, granted unto said exhibitors the right, for certain specified periods and in certain specified theatres or localities, to project and exhibit said copyrighted motion picture productions under said copyrights. [fol. 37] Annexed hereto as Exhibit "C" is a form of said license contract which was throughout said period uniformly used by plaintiff corporation (except for minor and immaterial diversity in dates, places, amounts, etc.), all of plaintiff's said income from said copyrights having during said period been paid to and received by plaintiff from licensees under contracts in that form.

The said sum, $162,588.98, thus received from licensees as royalties under said copyrights is exclusive of additional sums received from licensees for positive prints and other charges for which income no constitutional immunity is claimed herein.

As appears in the annexed return, Exhibit "B", verified by deponent, plaintiff has already submitted to the New York State Tax Commission, defendants herein, under oath, a statement that its income during said period to the amount aforesaid consisted of income from copyrights granted by the United States of America, and has duly demanded that said income be excluded from plaintiff's gross

income in the computation of the New York Franchise Tax based on plaintiff's net income for said period on the ground that plaintiff's right under the Constitution of the United States would be violated by the imposition of a tax on said income or a tax measured in whole or in part by said income, being income from a federal instrumentality, but said defendants have overruled said objection, and rejected said protest, and have refused to exclude said income from copyrights from plaintiff's gross income for the purpose of computing said tax and have accordingly demanded from plaintiff payment of the sum of $10,411.79 (being 4½% of plaintiff's net income, without excluding said copyright [fol. 38] income) within 30 days from January 29, 1930, under penalties provided in Article 9-A of the New York Tax Law.

Plaintiff is willing to pay a portion of said tax, viz: the sum of $3,095.28, being 4½% of plaintiff's net income for said period ($68,783.96) after deducting from plaintiff's gross income the said income from copyrights, as set forth in the said return and in the annexed bill of complaint, and has accordingly paid the said tax to the State Tax Commission unconditionally.

By reason of the facts hereinabove alleged irreparable loss and damage will result to the plaintiff unless a temporary restraining order be granted and remain in force until the hearing and determination of this application for an interlocutory judgment and thereafter until the trial of this action, restraining defendants from proceeding with the collection of the remainder of said tax, viz: the sum of $7,316.51, being the portion thereof computed at the rate of 4½% on plaintiff's said income from United States copyrights.

Wherefore deponent respectfully hereby applies for a temporary restraining order as aforesaid, in the form herewith submitted, and for an order requiring defendants to show cause before three judges, of whom at least one shall be a Justice of the Supreme Court or a Circuit Judge, and the other two may be either Circuit or District judges, why the collection of said tax and the enforcement, operation and execution of the aforesaid statute, and the action of the defendant officers in the enforcement and execution thereof, should not be suspended and restrained as prayed [fol. 39] for in the bill of complaint herein, and why such

Form 12 D

EXHIBIT "C"

COPY

STANDARD EXHIBITION CONTRACT

Exchange.....

AGREEMENT, made in one or more counterparts between....., a corporation (hereinafter referred to as "the Distributor"), party of the first part, and the Exhibitor hereinafter named and referred to as the "Exhibitor," operating the theatre or theatres hereinafter designated, party of the second part.

WITNESSETH:

The parties hereto agree as follows:

FIRST: The Distributor warrants that there is contained herein all of the numbered Articles of the "Standard Exhibition Contract" agreed upon by the Contract Committee appointed at the 1927 Motion Picture Trade Practice Conference (an authenticated copy of which has been filed with the American Arbitration Association). The Distributor also warrants that any clauses in addition thereto appearing upon the Schedule have been approved by such Contract Committee, and that any additional clauses appearing upon a Rider, if any hereto annexed, are not inconsistent with any of such numbered Articles. It is agreed that any clauses contained in such Rider shall be of no effect unless such Rider be signed by the Exhibitor. It is agreed that any agreement contained in the Schedule covering or describing what photoplays are licensed hereunder and in respect of any license fee, exhibition dates and any provision permitted by the provisions of the numbered Articles hereof shall not be deemed an additional clause for the purpose of this Article.

SECOND: (a) The Distributor hereby grants to the Exhibitor, and the latter accepts, a license under the respective copyrights of the several photoplays designated and described in the Schedule herein subject to the terms and conditions hereinafter stated to exhibit (during the period of one year commencing with the date fixed or determined as hereinafter provided for the exhibition in the theatre hereinafter designated of the first photoplay deliverable hereunder, unless otherwise in the Schedule provided) each of such photoplays at the said theatre only for the number of successive days in the said Schedule provided. If more than one theatre is hereinafter designated no photoplay is licensed hereunder for exhibition at more than one of such theatres unless otherwise specifically agreed upon in the Schedule.

(b) In case any such photoplays (except photoplays which shall be "roadshown") shall not be "generally released" by the Distributor for distribution in the United States during the period beginning September, 1929, and ending September, 1930, such photoplays shall be excepted and excluded from this license unless the Exhibitor shall give written notice to the Distributor not later than thirty days after such last mentioned date that the Exhibitor elects to exhibit all such photoplays hereunder. If such notice be given, the Distributor shall deliver and the Exhibitor shall exhibit such photoplays as and when available for exhibition hereunder, except that any of such photoplays not so "generally released" within two years after such last mentioned date shall be also excepted and excluded. The Distributor may exhibit or license the exhibition of any photoplays excepted and excluded as aforesaid when and where desired by the Distributor, and all claims or causes of action in respect thereof are hereby expressly waived by the Exhibitor.

THIRD: The Exhibitor agrees to exhibit under said license said photoplays, but only at the theatre hereinafter specified, on the exhibition date or dates fixed in the Schedule or determined as hereinafter provided, and not to allow any positive print thereof to leave the Exhibitor's possession during the period specified for the exhibition thereof by the Exhibitor, nor to exhibit or to permit the exhibition of any such positive print at any other time or place. Such license shall be specifically for such exhibition of such photoplays, and for no other purpose.

FOURTH: The Exhibitor agrees to pay for such license as to each of such photoplays the fixed sums herein specified at least three (3) days in advance of the date of shipment from the Distributor's Exchange or from the last previous exhibitor of the positive print thereof.

FIFTH: Payment, if any, made upon the execution hereof by the Exhibitor shall be deemed payment on account of the sums last payable hereunder.

SIXTH: During the life of this contract the Distributor agrees not to exhibit or license the exhibition of any such photoplays in conflict with the "run" or "protection period," if any, in the Schedule specified. Unless otherwise provided herein, such "protection period" shall be computed from the last date of exhibition of each photoplay as fixed herein. If "protection" is granted hereunder against a specified theatre or theatres which "protection" shall indicate that it was the intention of the Distributor to grant such "protection" against all of the theatres in the immediate neighborhood or vicinity of the Exhibitor's theatre, then, unless otherwise provided in the Schedule, such "protection" shall be deemed to apply to and include any theatre that may hereafter be opened in such neighborhood or vicinity.

SEVENTH: The Distributor agrees to deliver to the Exhibitor during the period specified in Article Second hereof or otherwise in the Schedule provided for a positive print suitable for exhibition of each of such photoplays for exhibition at the said theatre on the dates specified or on the dates determined as herein provided. Delivery of such positive prints by the Distributor to the Exhibitor at the Distributor's exchange or to a common carrier or to the United States postal authorities for mailing or to any agent of the Exhibitor shall be deemed delivery by the Distributor to the Exhibitor hereunder.

All deliveries other than at the Distributor's exchange shall be made in time to enable the carrier thereof in accordance with the carrier's time schedule to deliver to the Exhibitor or at the place where the Exhibitor's theatre is located prints at least one hour before the usual time for the opening of the Exhibitor's Theatre.

The Exhibitor agrees to return each positive print received by the Exhibitor hereunder, with the reels and containers furnished therewith, to the exchange of the Distributor from which the Exhibitor is served or as otherwise directed by the Distributor immediately after the last exhibition of such positive print, in the same condition as when received by the Exhibitor, reasonable wear and tear due to the proper use thereof excepted. The Exhibitor agrees to pay all costs of transportation of such positive prints, reels and containers from the Distributor's exchange or the last previous exhibitor having possession of any of such positive prints (as the case may be) and return to the Distributor's exchange; or if directed by the Distributor, to ship such positive prints elsewhere than to the Distributor's exchange transportation charges collect. It is agreed that the delivery of a positive print properly directed and packed in the container furnished by the Distributor therefor, to a carrier designated or used by the Distributor and proper receipt therefor obtained by the Exhibitor, shall constitute the return of such positive print by the Exhibitor.

If the Exhibitor fails to or delays the return of any positive print to the Distributor or fails to forward or delays forwarding (as directed by the Distributor) any such print to any other exhibitor the Exhibitor agrees to pay the Distributor the damage, if any, so caused the Distributor and in addition the damage, if any, so caused such other exhibitor as shall be determined by Arbitration as provided for in Article Eighteenth hereof.

EIGHTH: The exhibition date or dates of each photoplay, unless definitely specified or otherwise provided for in the Schedule, or otherwise agreed upon, shall be determined as follows:

1. The Distributor shall mail to the Exhibitor at least fifteen days' notice in writing of the date upon which each photoplay will be available for exhibition by the Exhibitor, consistent with prior runs and/or protection heretofore or hereafter granted to other exhibitors (which date is hereinafter referred to as "the available date"). Such notice shall be of no effect unless prints of such photoplay are in the exchange of the Distributor from which the Exhibitor is served.

2. Within fourteen days after the mailing of such notice, the Exhibitor shall select an exhibition date or dates within a thirty day period commencing with such available date, by giving written notice to the Distributor of the date, or dates, so selected.

If the exhibition date or dates so selected by the Exhibitor are not open for the Exhibitor, then the exhibition date or dates shall be designated as provided in the following paragraphs "A" and "B":

(A). If other dates within said thirty day period are open the Exhibitor shall immediately select from such other dates another date or other dates; failing to do so, then the Distributor shall designate the date or dates which shall be within a period not earlier than two weeks nor later than six weeks from the date first selected by the Exhibitor, by mailing fourteen days' notice thereof to the Exhibitor.

(B). If no other date or dates within said thirty day period are open (after the Exhibitor's written request therefor) then the Exhibitor shall designate the date or dates which shall be within a period not earlier than two, nor later than six weeks from the last date of the said thirty day period, by immediately giving written notice thereof to the Distributor. If the Exhibitor fails to immediately designate such date or dates, as provided in this paragraph "B," the Distributor shall designate the date or dates within the same period by mailing to the Exhibitor fourteen days' notice of such date or dates.

If the Exhibitor fails to make any selection within fourteen days after the mailing of the available dates of any photoplay, then the Distributor may at any time designate the exhibition date or dates thereof, which date or dates shall not be prior to the available date, by mailing notice thereof at least fourteen days before such exhibition date or dates; and if any such photoplay shall have been exhibited by any other exhibitor having a "run" prior in point of time and immediately preceding the "run" specified in the Schedule granted to the Exhibitor, then the Distributor shall designate the exhibition date or dates thereof, which shall be within a period of forty-five days commencing with the available date. In case the exhibition date or dates of any of the photoplays shall be designated by the Distributor pursuant to this paragraph, "the period of protection," if any, specified in the schedule, shall begin upon the fifteenth (15th) day of the thirty-day period specified in paragraph 2 of this article.

3. The exhibition date or dates of any of the photoplays selected by the Exhibitor (if available), or designated as in this Article Eighth provided, or otherwise agreed upon between the Distributor and the Exhibitor, shall be for all purposes the exhibition date or dates of such photoplay as though definitely specified in the Schedule.

4. In case this contract embraces a series of feature photoplays, five reels or more in length and featuring a particular star or director, the Exhibitor shall not be required hereunder to exhibit more than one photoplay of any such series every five weeks.

NINTH: The Exhibitor shall pay to the Distributor a sum equal to the cost of replacement at the Distributor's exchange for each linear foot of any positive print lost, stolen or destroyed or injured in any way in the interval between the delivery thereof by the Distributor and the return thereof by the Exhibitor in full settlement of all claims for such loss, theft, destruction or injury. Such payment, however, shall not transfer title to or any interest in any such positive print to the Exhibitor or any other party, nor release the Exhibitor from liability arising out of any breach of this contract. The Distributor shall at the option of the Exhibitor repay or credit to the Exhibitor any sums paid by the latter for lost or stolen prints, excepting "news reels," upon their return to the Distributor within sixty (60) days after the date when the same should have been returned hereunder. The Exhibitor shall not be liable for the damage or destruction of any positive print, provided the Exhibitor establishes such damage or destruction occurred while in transit from the Exhibitor. The Exhibitor shall immediately notify the Distributor's exchange by telegram of the loss, theft or destruction of or damage or injury to any positive print. If any positive print shall be received from the Exhibitor by the Distributor or any subsequent exhibitor in a damaged or partially destroyed condition it shall be deemed to have been so damaged or destroyed by the Exhibitor unless the latter, prior to the second public exhibition thereof shall have telegraphed the Distributor's exchange that such print was received by the Exhibitor in a damaged or partially destroyed condition, and setting forth fully the nature of such damage and the amount of footage so damaged or destroyed.

TENTH: The Exhibitor shall not be required to accept for any photoplay described in the Schedule as the photoplay of a star, or of a director, or based upon a specified story, book or play, or by an identifying description, any other photoplay of a different star or different director, or based upon a different story, book or play, or not corresponding to such identifying description, as the case may be. Nothing herein contained shall limit the right of the Distributor to change the title of any of such photoplays, or, as respects any photoplay based upon any story, book or play, prevent the making of any alterations, changes in or adaptations thereof.

The Distributor warrants that none of the photoplays licensed hereunder are reissues from old negatives or old negatives renamed, except those specifically set forth as such in the Schedule.

ELEVENTH: This contract shall not be assigned by either party without the written acceptance of the assignee and the written consent of the other party; **provided,** that if the Exhibitor sells or disposes of his interest in the theatre hereinafter specified, he may assign this contract to the purchaser of such interest without the written consent of the Distributor and such assignment shall become effective upon the written acceptance thereof by the assignee; such assignment, however, shall not relieve the Exhibitor of liability hereunder, unless the Distributor consents in writing to release the Exhibitor from such liability.

TWELFTH: The Exhibitor agrees to run photoplays (excepting "news reels") as delivered without alteration, excepting with the written or telegraphic approval of the Distributor, subject to requirements of duly authorized public authorities necessitating any change. The exhibitor also agrees to advertise and announce each photoplay as an "Educational Picture." In all newspaper advertising and publicity issued by the Exhibitor relating to said photoplays the Exhibitor shall adhere to the form of announcement contained in the advertising matter issued by the Distributor.

All advertising accessories used by the Exhibitor in connection with the exhibition of said photoplays must be leased from or through the Distributor and must not be sold, leased or given away by the Exhibitor.

Unless this contract expressly provides for the "first run" in the City or Town wherein the theatre hereinafter specified is located, the Exhibitor agrees not to advertise any of the photoplays herein provided for by means of lithographs, slides, trailers, lobby displays, newspaper announcements, advertising or otherwise prior to, and until after the completion of, the exhibition of such photoplay by any other exhibitor having the right of the "first run" thereof in said City or Town.

The Distributor shall not in any wise be liable for any breach of the provisions of the immediately preceding paragraph contained in any other "Standard Exhibition Contract" with any other exhibitor.

THIRTEENTH: The Distributor warrants that the photoplays herein provided for will not contain any advertising matter for which compensation is received by the Distributor.

FOURTEENTH: The Exhibitor agrees to pay to the Distributor upon demand any tax, fee or other like charge now and/or hereafter imposed or based upon the

"protection period," if any, in the Schedule specified. Unless otherwise provided herein, such "protection period" shall be computed from the last date of exhibition of each photoplay as fixed herein. If "protection" is granted hereunder against a specified theatre or theatres which "protection" shall indicate that it was the intention of the Distributor to grant such "protection" against all of the theatres in the immediate neighborhood or vicinity of the Exhibitor's theatre, then, unless otherwise provided in the Schedule, such "protection" shall be deemed to apply to and include any theatre that may hereafter be opened in such neighborhood or vicinity.

SEVENTH: The Distributor agrees to deliver to the Exhibitor during the period specified in Article Second hereof or otherwise in the Schedule provided for a positive print suitable for exhibition of each of such photoplays for exhibition at the said theatre on the dates specified or on the dates determined as herein provided. Delivery of such positive prints by the Distributor to the Exhibitor at the Distributor's exchange or to a common carrier or to the United States postal authorities for mailing or to any agent of the Exhibitor shall be deemed delivery by the Distributor to the Exhibitor hereunder.

All deliveries other than at the Distributor's exchange shall be made in time to enable the carrier thereof in accordance with the carrier's time schedule to deliver to the Exhibitor or at the place where the Exhibitor's theatre is located prints at least one hour before the usual time for the opening of the Exhibitor's Theatre.

The Exhibitor agrees to return each positive print received by the Exhibitor hereunder, with the reels and containers furnished therewith, to the exchange of the Distributor from which the Exhibitor is served or as otherwise directed by the Distributor immediately after the last exhibition of such positive print, in the same condition as when received by the Exhibitor, reasonable wear and tear due to the proper use thereof excepted. The Exhibitor agrees to pay all costs of transportation of such positive prints, reels and containers from the Distributor's exchange or the last previous exhibitor having possession of any of such positive prints (as the case may be) and return to the Distributor's exchange; or if directed by the Distributor, to ship such positive prints elsewhere than to the Distributor's exchange transportation charges collect. It is agreed that the delivery of a positive print properly directed and packed in the container furnished by the Distributor therefor, to a carrier designated or used by the Distributor and proper receipt therefor obtained by the Exhibitor, shall constitute the return of such positive print by the Exhibitor.

If the Exhibitor fails to or delays the return of any positive print to the Distributor or fails to forward or delays forwarding (as directed by the Distributor) any such print to any other exhibitor the Exhibitor agrees to pay the Distributor the damage, if any, so caused the Distributor and in addition the damage, if any, so caused such other exhibitor as shall be determined by Arbitration as provided for in Article Eighteenth hereof.

EIGHTH: The exhibition date or dates of each photoplay, unless definitely specified or otherwise provided for in the Schedule, or otherwise agreed upon, shall be determined as follows:

1. The Distributor shall mail to the Exhibitor at least fifteen days' notice in writing of the date upon which each photoplay will be available for exhibition by the Exhibitor, consistent with prior runs and/or protection heretofore or hereafter granted to other exhibitors (which date is hereinafter referred to as "the available date"). Such notice shall be of no effect unless prints of such photoplay are in the exchange of the Distributor from which the Exhibitor is served.

2. Within fourteen days after the mailing of such notice, the Exhibitor shall select an exhibition date or dates within a thirty day period commencing with such available date, by giving written notice to the Distributor of the date, or dates, so selected.

If the exhibition date or dates so selected by the Exhibitor are not open for the Exhibitor, then the exhibition date or dates shall be designated as provided in the following paragraphs "A" and "B":

(A). If other dates within said thirty day period are open the Exhibitor shall immediately select from such other dates another date or other dates; failing to do so, then the Distributor shall designate the date or dates which shall be within a period not earlier than two weeks nor later than six weeks from the date first selected by the Exhibitor, by mailing fourteen days' notice thereof to the Exhibitor.

(B). If no other date or dates within said thirty day period are open (after the Exhibitor's written request therefor) then the Exhibitor shall designate the date or dates which shall be within a period not earlier than two, nor later than six weeks from the last date of the said thirty day period, by immediately giving written notice thereof to the Distributor. If the Exhibitor fails to immediately designate such date or dates, as provided in this paragraph "B," the Distributor shall designate the date or dates within the same period by mailing to the Exhibitor fourteen days' notice of such date or dates.

If the Exhibitor fails to make any selection within fourteen days after the mailing of the available dates of any photoplay, then the Distributor may at any time designate the exhibition date or dates thereof, which date or dates shall not be prior to the available date, by mailing notice thereof at least fourteen days before such exhibition date or dates; and if any such photoplay shall have been exhibited by any other exhibitor having a "run" prior in point of time and immediately preceding the "run" specified in the Schedule granted to the Exhibitor, then the Distributor shall designate the exhibition date or dates thereof, which shall be within a period of forty-five days commencing with the available date. In case the exhibition date or dates of any of the photoplays shall be designated by the Distributor pursuant to this paragraph, "the period of protection," if any, specified in the schedule, shall begin upon the fifteenth (15th) day of the thirty-day period specified in paragraph 2 of this article.

3. The exhibition date or dates of any of the photoplays selected by the Exhibitor (if available), or designated as in this Article Eighth provided, or otherwise agreed upon between the Distributor and the Exhibitor, shall be for all purposes the exhibition date or dates of such photoplay as though definitely specified in the Schedule.

4. In case this contract embraces a series of feature photoplays, five reels or more in length and featuring a particular star or director, the Exhibitor shall not be required hereunder to exhibit more than one photoplay of any such series every five weeks.

NINTH: The Exhibitor shall pay to the Distributor a sum equal to the cost of replacement at the Distributor's exchange for each linear foot of any positive print lost, stolen or destroyed or injured in any way in the interval between the delivery thereof by the Distributor and the return thereof by the Exhibitor in full settlement of all claims for such loss, theft, destruction or injury. Such payment, however, shall not transfer title to or any interest in any such positive print to the Exhibitor or any other party, nor release the Exhibitor from liability arising out of any breach of this contract. The Distributor shall at the option of the Exhibitor repay or credit to the Exhibitor any sums paid by the latter for lost or stolen prints, excepting "news reels," upon their return to the Distributor within sixty (60) days after the date when the same should have been returned hereunder. The Exhibitor shall not be liable for the damage or destruction of any positive print, provided the Exhibitor establishes such damage or destruction occurred while in transit from the Exhibitor. The Exhibitor shall immediately notify the Distributor's exchange by telegram of the loss, theft or destruction of or damage or injury to any positive print. If any positive print shall be received from the Exhibitor by the Distributor or any subsequent exhibitor in a damaged or partially destroyed condition it shall be deemed to have been so damaged or destroyed by the Exhibitor unless the latter, prior to the second public exhibition thereof shall have telegraphed the Distributor's exchange that such print was received by the Exhibitor in a damaged or partially destroyed condition, and setting forth fully the nature of such damage and the amount of footage so damaged or destroyed.

TENTH: The Exhibitor shall not be required to accept for any photoplay described in the Schedule as the photoplay of a star, or of a director, or based upon a specified story, book or play, or by an identifying description, any other photoplay of a different star or different director, or based upon a different story, book or play, or not corresponding to such identifying description, as the case may be. Nothing herein contained shall limit the right of the Distributor to change the title of any of such photoplays, or, as respects any photoplay based upon any story, book or play, prevent the making of any alterations, changes in or adaptations thereof.

The Distributor warrants that none of the photoplays licensed hereunder are reissues from old negatives or old negatives renamed, except those specifically set forth as such in the Schedule.

ELEVENTH: This contract shall not be assigned by either party without the written acceptance of the assignee and the written consent of the other party; **provided,** that if the Exhibitor sells or disposes of his interest in the theatre hereinafter specified, he may assign this contract to the purchaser of such interest without the written consent of the Distributor and such assignment shall become effective upon the written acceptance thereof by the assignee; such assignment, however, shall not relieve the Exhibitor of liability hereunder, unless the Distributor consents in writing to release the Exhibitor from such liability.

TWELFTH: The Exhibitor agrees to run photoplays (excepting "news reels") as delivered without alteration, excepting with the written or telegraphic approval of the Distributor, subject to requirements of duly authorized public authorities necessitating any change. The exhibitor also agrees to advertise and announce each photoplay as an "Educational Picture." In all newspaper advertising and publicity issued by the Exhibitor relating to said photoplays the Exhibitor shall adhere to the form of announcement contained in the advertising matter issued by the Distributor.

All advertising accessories used by the Exhibitor in connection with the exhibition of said photoplays must be leased from or through the Distributor and must not be sold, leased or given away by the Exhibitor.

Unless this contract expressly provides for the "first run" in the City or Town wherein the theatre hereinafter specified is located, the Exhibitor agrees not to advertise any of the photoplays herein provided for by means of lithographs, slides, trailers, lobby displays, newspaper announcements, advertising or otherwise prior to, and until after the completion of, the exhibition of such photoplay by any other exhibitor having the right of the "first run" thereof in said City or Town.

The Distributor shall not in any wise be liable for any breach of the provisions of the immediately preceding paragraph contained in any other "Standard Exhibition Contract" with any other exhibitor.

THIRTEENTH: The Distributor warrants that the photoplays herein provided for will not contain any advertising matter for which compensation is received by the Distributor.

FOURTEENTH: The Exhibitor agrees to pay to the Distributor upon demand any tax, fee or other like charge now and/or hereafter imposed or based upon the delivery and/or the exhibition of positive prints of the photoplays and/or upon the sums payable under this contract by the Exhibitor to the Distributor. If under any statute or ordinance any such tax, fee or other like charge is or shall be payable or paid by the Distributor and the exact amount payable hereunder by the Exhibitor is not therein definitely fixed or cannot be exactly determined then the Exhibitor agrees to pay such part of any such tax, fee or other like charge, paid or payable by the Distributor as shall be fixed in the manner determined by the then President of the American Arbitration Association.

FIFTEENTH: The Exhibitor warrants and agrees that during the period each of the photoplays herein provided for shall be exhibited in said theatre the Exhibitor will charge for admission to said theatre an actual admission fee which shall not be less than ten cents, unless a greater minimum admission charge is herein elsewhere specified, for each exhibition and that such photoplays shall not be exhibited unless such admission fee is charged.

SIXTEENTH: In case the Exhibitor shall be delayed in or prevented from the performance of this contract with respect to any of the photoplays herein specified by reason of censor rulings, the elements, accidents, strikes, fire, insurrection, acts of God, the public enemy, public calamity or order of any Court of competent jurisdiction, then such delay or failure of performance with respect to such photoplay shall be excused and all claims or causes of action for damages therefor, or arising therefrom, are hereby expressly waived by the Distributor. In any such event, the time of the Exhibitor to perform this contract with respect to any such photoplay shall be extended for a period equal to the time of such delay, unless performance thereof because of the happening of any such cause or contingency is rendered impossible, in which case performance by the Exhibitor with respect to any such photoplay shall be waived. The resumption of performance by the Exhibitor shall begin promptly after the removal or abatement of the contingencies or causes of such disability or prevention of performance, **provided,** that if such delay and/or prevention of performance, caused as aforesaid, shall continue for a period of three (3) months either party hereto may cancel this contract, but only with respect to any such photoplay the exhibition hereunder of which has been so delayed or prevented, by sending after the expiration of such three (3) months' period to the other party notice in writing to such effect.

In case the Distributor shall be delayed in or prevented from the performance of this contract with respect to any of the photoplays herein specified by reason of the elements, accidents, strikes, fire, insurrection, acts of God, the public enemy, public calamity, Court orders, censor rulings, delays of any common carrier, or of the United States Postal authorities, delays in production or failure of the producers of any of such photoplays to make or deliver them to the Distributor or of any star or other performer to appear therein in time for delivery as herein provided, then such delay in or prevention of performance shall be excused and all claims or causes of action for damages therefor or arising therefrom are hereby expressly waived by the Exhibitor. In any such event, the time of the Distributor to perform this contract with respect to any such photoplay shall be extended for a period equal to the time of such delay, provided, however, that in case any such delay or prevention shall prevent the Distributor from "generally releasing" any such photoplay during the period specified in paragraph (b) of Article Second, the provisions of such paragraph shall govern, unless performance because of the happening of any such cause or contingency is rendered impossible, in which case performance by the Distributor with respect to any such photoplay shall be waived. The resumption of performance by the Distributor shall begin promptly after the removal or abatement of the contingencies or causes of such disability or prevention of performance and the Distributor shall deliver to the Exhibitor any such photoplay at the earliest available date thereafter, and such delivery in any such case shall be with the same force and effect as though delivery took place within the period herein above limited and the Exhibitor agrees to accept, pay for and exhibit any such photoplay at such later period pursuant to the terms hereof.

SEVENTEENTH: The waiver by either party of any breach or default by the other party shall not be construed as a waiver of any other or subsequent breach or default by such other party.

EIGHTEENTH: The parties hereto agree that before either of them shall resort to any court to determine, enforce or protect the legal rights of either hereunder, each shall submit to the Board of Arbitration (established or constituted pursuant to the Rules of Arbitration filed with the American Arbitration Association, 342 Madison Avenue, New York City, bearing date May 1, 1928, and identified by the signatures of the Contract Committee appointed at the 1927 Motion Picture Trade Practice Conference, a copy of which will be furnished to the Exhibitor upon request) in the city wherein is situated the exchange of the Distributor from which the Exhibitor is served or if there be no such Board of Arbitration in such city then to the Board of Arbitration in the city nearest thereto (unless the parties hereto agree in writing that such submission shall be made to a Board of Arbitration located in another specified city), all claims and controversies arising hereunder for determination pursuant to the said Rules of Arbitration and the rules of procedure and practice adopted by such Board of Arbitration.

The parties hereto further agree to abide by and forthwith comply with any decision and award of such Board of Arbitration in any such arbitration proceeding, and agree and consent that any such decision or award shall be enforceable in or by any court of competent jurisdiction pursuant to the laws of such jurisdiction now or hereafter in force; and each party hereto waives the right of trial by jury upon any issue arising under this contract, and agrees to accept as conclusive the findings of fact made by any such Board of Arbitration, and consents to the introduction of such findings in evidence in any judicial proceeding.

In the event that the Exhibitor shall fail or refuse to consent to submit to arbitration any claim or controversy arising under this or any other Standard Exhibition Contract which the Exhibitor may have with the Distributor or any other distributor or to abide by and forthwith comply with any decision or award of such Board of Arbitration upon any such claim or controversy so submitted, the Distributor may, at its option, demand, for its protection and as security for the performance by the Exhibitor of this and all other existing contracts between the parties hereto, payment by the Exhibitor of an additional sum not exceeding $500 under each existing contract, such sum to be retained by the Distributor until the complete performance of all such contracts and then applied, at the option of the Distributor, against any sums finally due or against any damages determined by said Board of Arbitration to be due to the Distributor, the balance, if any to be returned to the Exhibitor; and in the event of the Exhibitor's failure to pay such additional sum within seven (7) days after demand, the Distributor may by written notice to the Exhibitor suspend service hereunder until said sum shall be paid and/or terminate this contract.

In the event that the Distributor shall fail or refuse to consent to the submission to arbitration of any claim or controversy arising under this or any other Standard Exhibition Contract providing for arbitration which the Distributor may have with the Exhibitor, or to abide by and forthwth comply with any decision or award of such Board of Arbitration upon any such claim or controversy so submitted, within the number of days specified in Article Twenty-Second opposite the name of the City in with such Board of Arbitration is located, the Exhibitor may at his option terminate this and any other existing contract between the Exhibitor and the Distributor by mailing notice by registered mail within two (2) weeks after such failure or refusal, and in addition the Distributor shall not be entitled to redress from such Board of Arbitration upon any claim or claims against any exhibitor until the Distributor shall have complied with such decision, and in the meanwhile the provsions of the first paragraph of this Article Eighteenth shall not apply to any such claim or claims.

Any such termination by either party, however, shall be without prejudice to any other right or remedy which the party so terminating may have by reason of any such breach of contract by the other party.

The provisions of this contract relating to arbitration shall be construed according to the law of the State of New York.

NINETEENTH: This Contract is complete and no promises or representations have been made by either party to the other except as set forth herein.

TWENTIETH: If the license herein granted shall apply to an entire group of photoplays offered by the Distributor to the Exhibitor at one time, and not otherwise, the Exhibitor shall have the right to exclude from this contract up to but not exceeding ten per cent of the total number of such photoplays, but only if the Exhibitor shall give the Distributor written notice to such effect at any time not later than fourteen (14) days before the date fixed for the exhibition of any such photoplay hereunder, and if at the same time the Exhibitor shall pay to the Distributor one-half of the license fee payable in respect of any such photoplay. In computing such ten per cent, fractions of less than one-half shall be disregarded. If any such photoplay shall, because of such exclusion, be thereafter licensed by the Distributor for the same run as that specified in this contract, for exhibition at another theatre where such excluded photoplay would not have been exhibited if not so excluded; then one-half of the license fee (up to but not exceeding the amount paid by the Exhibitor to the distributor as a condition of so excluding such photoplay) received by the Distributor for such re-license, shall be credited to the Exhibitor by the Distributor.

If the license fee for any such photoplay so excluded is to be computed either in whole or in part upon a percentage of gross receipts of the Exhibitor's theatre, then for the purpose of computing such one-half of such license fee payable hereunder in respect of such photoplay, such gross receipts for each day that any such photoplay is licensed hereunder for exhibition thereat shall be deemed to be the average daily gross receipts of such theatre during the period of thirty (30) operating days immediately prior to such date of availability of such photoplay.

TWENTY-FIRST: If the Exhibitor shall claim that the exhibition at the theatre hereinafter specified of any photoplay licensed hereunder will be offensive to the public in the place where such theatre is located, because of racial or religious subject matter, and if the Exhibitor shall give written notice to the Distributor of such claim within a reasonable time prior to the date fixed for the Exhibition thereof hereunder such claim shall be immediately submitted to the Board of Arbitration herein specified. If such Board of Arbitration shall specifically determine that the exhibition of such photoplay at such theatre will be offensive to said public because of racial or religious subject matter, then such photoplay shall be excepted from this contract, and not otherwise. The Distributor may exhibit or license the exhibition of any photoplay so excepted when and where desired by the Distributor free from all claims of the Exhibitor.

If the Distributor shall be of the opinion that any photoplay licensed hereunder will be offensive because of racial or religious subject matter, to th epublic in the place where the Exhibitor's theatre is located, the Distributor shall have the right to except and exclude such photoplay from this contract, upon condition that such photoplay shall not thereafter be licensed for exhibition in such place unless such racial or religious subject matter is eliminated therefrom in which case such photoplay shall again be deemed licensed hereunder.

TWENTY-SECOND: This instrument shall be deemed an application for a license under copyright only and shall not become binding until accepted in writing without alteration or change by an officer of or any person duly authorized by the Distributor and notice of acceptance sent to the Exhibitor as herein provided. The deposit by the Distributor of any check or other consideration given by the Exhibitor at the time of application as payment on account of any sums payable hereunder or the delivery of a print of any of the photoplays or the furnishing of any advertising accessories shall not be deemed an acceptance hereof by the Distributor.

Unless notice of acceptance of this application by the Distributor is sent to the Exhibitor by mail or telegraph within the number of days after the date thereof hereinafter specified (immediately following the name of the city wherein is situated the exchange of the Distributor from which the Exhibitor is served, or if such city is not hereinafter named then within the number of days specified immediately following the city hereinafter named nearest thereto) sai. application shall be deemed withdrawn and the Distributor shall forthwith return any sums paid on account thereof by the Exhibitor. Albany 10; Atlanta 20; Boston 10; Buffalo 10; Charleston 15; Charlotte 15; Chicago 15; Cincinnati 20; Cleveland 15; Dallas 30; Denver 20; Des Moines 15; Detroit 15; Indianapolis 15; Jacksonville 15; Kansas City 15; Los Angeles 25; Little Rock 15; Louisville 15; Memphis 20; Milwaukee 15; Northern New Jersey 7; Minneapolis 20; Butte 30; New Haven 10; New Orleans 15; New York City 7; Oklahoma City 20; Omaha 20; Peoria 15; Philadelphia 10; Pittsburgh 14; Portland, Ore., 30; St. Louis 15; Salt Lake City 30; San Francisco 20; Seattle 30; Washington, D. C., 14.

This application and any application for other photoplays of the Distributor executed by the Exhibitor at the same time shall, for the purpose of this Article only, be deemed one application unless an agreement to the contrary contained in the Schedule is specifically signed by the Exhibitor.

A copy of this application, signed by the Exhibitor, shall be left with the Exhibitor at the time of signing, and in the event of acceptance thereof as above provided, a duplicate copy, signed by the Distributor, shall be forwarded to the Exhibitor.

SCHEDULE FOR RELEASES OF DISTRIBUTOR'S SERIES.....

IT IS AGREED THAT THE EXHIBITOR SHALL, BEGINNING.....19....., OR WITH THE FIRST PLAY DATE DETERMINED AS HEREIN PROVIDED, EXHIBIT AND/OR PAY FOR ALL THE.....PHOTOPLAYS SPECIFIED BELOW, AS FOLLOWS:.....PHOTOPLAY....EVERY.....WEEK.....

Brand Contract No.	No. of Pictures	TITLE OR BRAND	Rental for ——Day Per Release	Rental for ——Day Per Release	Rental Each Additional Day Per Release
		MACK SENNETT			
		CORONET			
		LLOYD HAMILTON			
		JACK WHITE			
		LUPINO LANE			
		MERMAID			
		TUXEDO			
		JAZZ MAMAS			
		HODGE PODGE			
		RUNAWAY TRAIN			

RUN .....

PROTECTION .....

END OF SCHEDULE

RIDER FOR SOUND PICTURES

FIRST: "Recorded Sound" as used herein shall be deemed to mean the spoken words, music, or other sounds recorded upon the positive print of a photoplay or upon a record, disc or other similar devices, separate and apart from a positive print, for use in synchronism therewith.

SECOND: The Distributor grants to the Exhibitor and the latter accepts a license under the respective copyrights of the photoplays specified in the Schedule for which sound is recorded, and/or under any copyright which may be in force with respect to any matter included in such recorded sound, to reproduce such recorded sound in synchronism with the exhibition of said photoplays, but only at the theatre designated in the license to which this Rider is attached, and for the number of

cago 15; Cincinnati 20; Cleveland 15; Dallas 30; Denver 20; Des Moines 15; Detroit 15; Indianapolis 15; Jacksonville 15; Kansas City 15; Los Angeles 25; Little Rock 15; Louisville 15; Memphis 20; Milwaukee 15; Northern New Jersey 7; Minneapolis 20; Butte 30; New Haven 10; New Orleans 15; New York City 7; Oklahoma City 20; Omaha 20; Peoria 15; Philadelphia 10; Pittsburgh 14; Portland, Ore., 30; St. Louis 15; Salt Lake City 30; San Francisco 20; Seattle 30; Washington, D. C., 14.

This application and any application for other photoplays of the Distributor executed by the Exhibitor at the same time shall, for the purpose of this Article only, be deemed one application unless an agreement to the contrary contained in the Schedule is specifically signed by the Exhibitor.

A copy of this application, signed by the Exhibitor, shall be left with the Exhibitor at the time of signing, and in the event of acceptance thereof as above provided, a duplicate copy, signed by the Distributor, shall be forwarded to the Exhibitor.

SCHEDULE FOR RELEASES OF DISTRIBUTOR'S SERIES.....

IT IS AGREED THAT THE EXHIBITOR SHALL, BEGINNING.....19....., OR WITH THE FIRST PLAY DATE DETERMINED AS HEREIN PROVIDED, EXHIBIT AND/OR PAY FOR ALL THE.....PHOTOPLAYS SPECIFIED BELOW, AS FOLLOWS:.....PHOTOPLAY....EVERY.....WEEK.....

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		TUXEDO			
		JAZZ MAMAS			
		HODGE PODGE			
		RUNAWAY TRAIN			

RUN .....

PROTECTION .....

END OF SCHEDULE

RIDER FOR SOUND PICTURES

FIRST: "Recorded Sound" as used herein shall be deemed to mean the spoken words, music, or other sounds recorded upon the positive print of a photoplay or upon a record, disc or other similar devices, separate and apart from a positive print, for use in synchronism therewith.

SECOND: The Distributor grants to the Exhibitor and the latter accepts a license under the respective copyrights of the photoplays specified in the Schedule for which sound is recorded, and/or under any copyright which may be in force with respect to any matter included in such recorded sound, to reproduce such recorded sound in synchronism with the exhibition of such photoplays, but only at the theatre designated in the license to which this Rider is attached, and for the number of successive days in the Schedule specified.

THIRD: This license to so reproduce such recorded sound is granted upon the Exhibitor's warranties and conditions as follows: (a) that the sound reproducing equipment installed in said theatre will operate reliably and efficiently to reproduce such recorded sound, with adequate volume and high quality, whether recorded upon the positive print or upon records, discs or other similar devices; and (b) that if copyrighted musical compositions are included in such recorded sound, the Exhibitor shall, at the time of the exhibition of such photoplays and the reproduction of such recorded sound, have an effective license from the American Society of Authors, Composers and Publishers publicly to perform the copyrighted musical compositions in the repertoire of said Society.

FOURTH: The Exhibitor agrees: (a) to return all sound records, discs or other similar devices, if any have been delivered to Exhibitor hereunder, and all parts thereof if damaged or broken, immediately following the last exhibition of the photoplay with which such sound records are used; and (b) if such recorded sound is recorded on records, discs or other similar devices, to replace with black blank positive stock, all parts removed from the positive print of any photoplay while in the Exhibitor's possession, but the Exhibitor shall have no right to remove any part of the positive print except as specifically authorized in the license to which this Rider is attached.

FIFTH: All of the provisions of the license to which this Rider is attached shall be deemed incorporated herein as if fully set forth, except that for the purposes of this Rider only, there shall be substituted for the words "photoplays" and "positive prints" the words "records, discs or other similar devices" (if any are produced and delivered), and there shall be substituted for the words "exhibition" and "exhibit" the words "reproduction" and "reproduce," where the context permits; and it is agreed that all claims and controversies arising hereunder shall be submitted for determination by arbitration, as provided in Article EIGHTEENTH of the said license.

SIXTH: The Distributor does not warrant that such recorded sound will be recorded on the positive print or on records, discs or other similar devices, the Distributor reserving the right to use any one or more methods of recording it may from time to time determine.

IN WITNESS WHEREOF, the parties hereto have duly executed this Rider.

.....
Distributor.

.....
Exhibitor.

END OF RIDER

IN WITNESS WHEREOF the Distributor above named and.....the Exhibitor operating.....days each week with.....changes of program the.....Theatre, located at ..... in .....State of..... have executed this instrument, the.....day of.....19....., which upon acceptance by the Distributor shall be deemed to be the license to the Exhibitor for the exhibition of the photoplays specified in the Schedule in accordance with the terms hereof.

Accepted (Date)

.....
EDUCATIONAL FILM EXCHANGES, INC.

.....
Distributor

.....
Exhibitor

Branch..... Salesman.....

*DIRECTION TO SALESMEN: While you have every right to trade among prospective customers to obtain the best offer possible for your product, after you have selected a particular exhibitor whose offer you believe to be the best obtainable and take a written application from such exhibitor, you are hereby directed to forward the application to the office of your company and make no further effort to sell the same service to any other exhibitor directly competing with such exhibitor until the application so forwarded has been duly rejected, accepted or withdrawn in accordance with its terms. A violation of this direction will subject you to discharge.

*(Note: This direction to Salesmen shall be printed upon but shall not be deemed a part of the Standard Exhibition Contract.)

Franchise Commission based on and measured by plaintiff's income from its copyrights of the United States of America is violative of plaintiff's rights under the United States Constitution, as declared by the United States Supreme Court in the case of Long v. Rockwood, 277 U. S. 142; and Macallen v. Commonwealth of Massachusetts, U. S. Supreme Court No. 578, May 27, 1929, rehearing denied October 14, 1929.

I have also advised plaintiff, and verily believe, that the statutes of New York State do not provide any adequate remedy at law (or indeed any remedy at all available in the federal courts) for the hearing and determination of plaintiff's constitutional rights before the payment of said tax, or for the recovery back of said tax after it has been paid.

As will further appear in the bill of complaint and annexed affidavit of Dario L. Faralla, plaintiff, under oath, has already submitted under oath to the State Tax Commission the facts upon which its claim of violation of constitutional right is based, viz: the fact that its income for the period in question included to the extent of $162,588.98 income from copyrights of the United States owned by said plaintiff taxpayer and has in the most formal manner asserted its said constitutional rights to have said income excluded in computing its franchise tax based upon its income; and that nevertheless despite said facts and said assertion of constitutional right, the State Tax Commission has overruled said objection and proceeded to assess a tax of $10,411.79, of which only $3,095.28 is computed (at the [fol. 45] rate of 4½%) upon plaintiff's other income (not derived from United States copyrights) and the sum of $7,316.51, the amount in dispute, is computed upon said income from copyrights at the rate of 4½%.

Moreover, in correspondence which I have had with said State Tax Commission the Commission has manifested a fixed purpose to overrule, and to continue to overrule, the aforesaid constitutional objection, until that precise question has been decided by the United States Supreme Court, and has heretofore not granted any hearing to any of the several taxpayers similarly situated who have voluntarily paid their taxes and demanded hearings before said State Tax Commission as a condition precedent to applying for

relief, by certiorari to the New York Supreme Court, Appellate Division, Third Department.

I have accordingly advised plaintiff, and verily believe, that in view of the aforesaid facts and as determined in the clearest possible manner by the Supreme Court of the United States, (and as particularly set forth in the bill of complaint) the remedy available to the plaintiff under the statutes and procedure afforded by the State of New York is inadequate, and that there is no remedy at law whatsoever available to the plaintiff in the federal courts, either of which is sufficient to entitle plaintiff to the injunctive relief herein prayed for.

Plaintiff is, upon information and belief, financially responsible, and I assume that assertion will not be challenged by defendants. Plaintiff has already paid the sum of $3,095.28, representing the portion of the tax which is not in dispute., and, if required by the Court, is willing to file a bond of an authorized surety company conditioned [fol. 46] upon the payment of the amount of tax in dispute, together with legal interest thereon.

Plaintiff therefore prays for an order, pursuant to Section 380 of the United States Code of Laws (formerly Section 266 of the Judicial Code) containing a temporary restraining order, and requiring defendant to show cause before a court of three judges why the said restraint should not be continued during the pendency of this action.

Plaintiff intends to prosecute this action with the utmost diligence, and I believe that it is a foregone conclusion that the losing party will in any event appeal directly to the United States Supreme Court, so that this important constitutional question may be conclusively disposed of.

No previous application has been asked for the relief herein prayed for.

Roger Hinds.

Sworn to before me this 18th day of February, 1930. Mary E. Lee, Notary Public, Queens County. Co. Cl'k's No. 3309, Reg. No. 3871. N. Y. Co. Cl'k's No. 890, Reg. No. O-592. Kings Co. Cl'k's No. 208, Reg. No. 495A. Commission expires March 30, 1930.

other and further relief as may be just in the premises should not be granted.

No previous application has been made for the relief herein prayed for.

Dario L. Faralla.

Sworn to before me this 15th day of February, 1930. Bernard J. Kearney, Notary Public, New York County. New York County Clerk's No. 66. New York Co. Register's No. O-18. Term expires March 30, 1930.

[fol. 40] EXHIBIT "C" TO AFFIDAVIT OF FARALLA

(Here follows exhibit, side folios 41 and 42)

[fol. 43] IN UNITED STATES DISTRICT COURT

[Title omitted]

AFFIDAVIT OF ROGER HINDS

SOUTHERN DISTRICT OF NEW YORK,
City, County and State of New York, ss:

Roger Hinds, being duly sworn, upon his oath deposes and says:

I am a member of the bar of the States of New York and New Jersey, of the United States Supreme Court, of the United States District Courts for the Southern and Eastern Districts of New York, and of the Circuit Court of Appeals for the Second and Third Circuits, and am solicitor for the above named plaintiff and familiar with the matters embraced in the bill of complaint herein.

There are associated with me as counsel in this matter Benjamin B. De Witt, Esq. and Siegfried Hartman, Esq. of New York City.

[fol. 44] After the fullest investigation into the law and facts in this case, and after extended consultation with said counsel, I have advised plaintiff herein, and verily believe, that the threatened tax assessed by the New York State

[fol. 47] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER AMENDING BILL OF COMPLAINT

Plaintiff having duly applied for permission to amend its bill of complaint so as to substitute as one of the defendants comprising the New York State Tax Commission, the name of Thomas M. Lynch instead of his predecessor M. F. Loughman, and no suppœna having as yet been served upon any of the defendants, or any temporary restraining order as yet made herein, it is, on motion of Roger Hinds, solicitor for plaintiff,

Ordered that the bill of complaint be and the same is hereby amended so as to substitute the name of Thomas M. Lynch for that of his predecessor M. F. Loughman in the caption and in paragraph 4 of said bill, as one of the [fol. 48] defendants comprising the New York State Tax Commission, and that the subpœna herein be similarly amended.

Dated at New York, N. Y., this 21st day of February, 1930.

Wm. Bondy, Judge of the United States District Court for the Southern District of New York.

[fol. 49] IN UNITED STATES DISTRICT COURT

[Title omitted]

STIPULATION RE AMENDMENT OF BILL OF COMPLAINT

It is hereby stipulated, by and between the respective parties to the above entitled suit, by their respective solicitors, and subject to the approval of the Court, as follows:

I. That the bill of complaint herein be amended as follows:

(a) By adding to paragraph 6th of the bill of complaint the following allegation: "That of the aforesaid deductions, $49,151.37 consisted of plaintiff's expenses in pro-

curing the aforesaid income of $168,588.98 from copyright royalties".

(b) By adding to paragraph 14th of the bill of complaint the following allegation: "That after the commencement of this suit the State Tax Commission offered to give plaintiff [fol. 50] a hearing and a hearing has accordingly been had, and the State Tax Commission has announced that it will affirm the aforesaid assessment."

(c) That the bill of complaint shall be further amended by striking therefrom any allegations inconsistent with the foregoing amendments.

II. That the defendants shall be deemed to have made a cross motion for the dismissal of said bill of complaint, as so amended, upon the ground that the same does not state facts sufficient to constitute a cause of action, and that the said cross motion shall be deemed to have been submitted to this Court, notice of such cross motion being expressly waived.

III. That the defendants' time within which to file and serve its brief upon the plaintiff's motion for an interlocutory injunction herein and upon the defendants' motion to dismiss the said complaint, be extended to and including the 24th day of March 1930, and the plaintiff's time within which to reply thereto be extended to and including the 31st day of March 1930.

IV. That any party may enter an order on this stipulation without notice.

Dated March 14, 1930.

Roger Hinds, Solicitor for Plaintiff. Hamilton Ward, Attorney General of the State of New York, Solicitor for Defendants.

[fol. 51] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER AMENDING BILL OF COMPLAINT

The parties hereto, by their respective solicitors, having, subject to the approval of the Court, entered into the an-

nexed stipulation dated the 14th day of March, 1930, it is hereby

Ordered that the bill of complaint be and the same is hereby amended as follows:

(a) By adding to paragraph 6th of the bill of complaint the following allegation: "That of the aforesaid deductions, $49,151.37 consisted of plaintiff's expenses in procuring the aforesaid income of $168,588.28 from copyright royalties".

(b) By adding to paragraph 14th of the bill of complaint the following allegation: "That after the commencement of this suit the State Tax Commission offered to give plaintiff a hearing and a hearing has accordingly been had, and [fol. 52] the State Tax Commission has announced that it will affirm the aforesaid assessment."

(c) By striking therefrom any allegations inconsistent with the foregoing amendments.

and it is further

Ordered that the defendants shall be deemed to have made a cross motion for the dismissal of said bill of complaint, as so amended, upon the ground that the same does not state facts sufficient to constitute a cause of action, and that the said cross motion shall be deemed to have been submitted to this Court, notice of such cross motion being expressly waived; and it is further

Ordered that the defendants' time within which to file and serve its brief upon the plaintiff's motion for an interlocutory injunction herein and upon the defendants' motion to dismiss the said complaint, be extended to and including the 24th day of March, 1930, and the plaintiff's time within which to reply thereto be extended to and including the 31st day of March, 1930.

Dated New York, N. Y., this 25th day of March, 1930.

Harrie B. Chase, U. S. Circuit Judge. W. M. Bondy, U. S. D. J. Woolsey, U. S. District Judge.

[fol. 53] In United States District Court for the Southern District of New York

Educational Films Corporation of America, Plaintiff,

against

Hamilton Ward, Attorney General of the State of New York, and Thomas M. Lynch, John H. Merrill, and Mark Graves, Comprising the New York State Tax Commission, Defendants

Before Chase, Circuit Judge; Bondy and Woolsey, District Judges

Convened pursuant to Sec. 266 of the Judicial Code (28 U. S. C. A. Sec. 380).

Opinion

In this action brought and heard by virtue of U. S. Code Title 28 Sec. 41 (1), the plaintiff is seeking to have the defendants enjoined from collecting that part of the franchise tax assessed against it for the year ending October 31, 1930, under and by virtue of Article 9-A the New York Tax Law, which results from using any of the plaintiff's income derived from copyrights as a measure of the tax. Its contention is that the law so uses copyright income in violation of the Federal constitution. The applicable portions of Article 9-A of the New York law providing for a franchise tax on business corporations follow:

[fol. 54] "Sec. 209. Franchise Tax on Corporations Based on Net Income. For the privilege of exercising its franchise in this State in a corporate or organized capacity every domestic corporation, * * * shall annually pay in advance for the year beginning November first next succeeding the first day of July in each and every year an annual franchise tax, to be computed by the tax commission upon the basis of its entire net income, as defined in subdivision three of section two hundred and eight of the tax law, for its fiscal or the calendar year next preceding, as hereinafter provided, which entire net income is presumably the same as the entire net income which such corporation is required to report to the United States, plus any income

received as dividends on stocks or any interest received on bonds of any character * * *.

Section 208, subdivision 3 (referred to in Section 209, supra), so far as material here, provides as follows:

"3. The term 'entire net income' means the total net income, including all dividends received on stocks and all interest received from federal, state, municipal or other bonds * * *."

Section 211, so far as material here, provides as follows:

"Reports of Corporations to Tax Commission.—Every corporation taxable under this article * * * shall annually on or before July first, or within thirty days after the making of its report of entire net income to the United States treasury department for any fiscal or calendar year, preceding said first day of July, transmit to the tax commission a report in the form prescribed by the tax commission, specifying:

* * * * * * *

"2. The amount of its entire net income for its preceding fiscal or the preceding calendar year as provided by subdivision three of section two hundred and eight of the tax law * * *. If the corporation shall claim that the return made to the United States treasury department was inaccurate, the amount claimed by it to be the net income for such period shall be specified * * *."

Section 215 provides:

"Rate of Tax.—The tax imposed by this article shall be at the rate of four and one-half per centum of the entire net income of the corporation * * * determined as provided by this article * * *."

[fol. 55] At the hearing, it appeared that the plaintiff had not, before bringing this suit applied to the New York State Tax Commission for a revision of the assessment. Since then the parties have by leave of Court filed a stipulation showing that a hearing has been had before the Commission and the assessment affirmed. The bill of complaint has been amended and, as amended, is attacked by the de-

fendants' motion to dismiss on the ground that it fails to state a cause of action.

The facts are not in dispute. The plaintiff is a domestic business corporation subject to be taxed under the New York law if the tax is constitutional. Its income during the year in question consisted in part of $162,588.98 derived solely from copyrights granted by the United States on motion picture films. Its expenses in procuring this part of its income were $49,151.37 leaving its net copyright income $113,437.61. These copyrights were not all held in the name of the plaintiff, some being in its name and some in the names of affiliated corporations, but all were owned by the plaintiff and it received the income therefrom. It bases this suit solely on the ground that to measure its franchise tax by any part of its copyright income is in effect taxing income from a federal instrumentality which is beyond the reach of state taxation.

Roger Hinds, Esq., Solicitor for Plaintiff. Benjamin P. DeWitt, Siegfried F. Hartman and Roger Hinds, of counsel.

[fol. 56] Hamilton Ward, Esq., Attorney General, Solicitor for Defendants. Wendell P. Brown, Esq., Third Assistant Attorney General, of Counsel.

CHASE, Circuit Judge:

The power of a State to impose a tax on the franchise of a corporation doing business therein is too well established for discussion. Kansas City, Fort Scott and Memphis Ry. Co. v. Botkin, 240 U. S. 227, 232, and it is equally well settled that, except under conditions discussed below, the net income of a corporation may be used to measure a tax on the privilege of doing business in corporate form even though such income does in part come from property exempt from taxation by the same taxing power, Flint v. Stone Tracy Co., 222 U. S. 107; that the excess of the market value of capital stock over the value of certain specified property behind it may be used by a state as the measure of the tax although the market value was enhanced by United States bonds held by the corporation, Hamilton Company v. Massachusetts, 6 Wall. 632; that a state may tax the franchise of a savings bank and use as the measure a percentage of

its deposits on a day certain though part of such deposits were actually then invested in tax exempt federal securities, Society for Savings v. Coite, 6 Wall. 594; see also Provident Institution for Savings v. Massachusetts, 6 Wall. 611; that the tax may be measured by dividends made or [fol. 57] declared although such dividends had their source in part in capital invested in United States bonds; Home Insurance Co. v. New York, 134 U. S. 594; that it may be measured by the amount of paid-up capital stock which may represent in part non-taxable property, Kansas City etc., v. Botkin, supra. In United States Glue Co., v. Town of Oak Creek, 247 U. S. 321, 328 it was held that income derived from interstate commerce might be directly reached under an income tax law which did not discriminate against such commerce. See also, Hump Hairpin Co. v. Emmerson, 258 U. S. 290; Underwood Typewriter Co., v. Chamberlain, 254 U. S. 113, 120; and International Shoe Company v. Shartel, 279 U. S. 429. State inheritance taxes were held to be lawfully measured by including the value of United States bonds in Blodgett v. Silberman, 277 U. S. 1, 12; and in Plummer v. Coler, 178 U. S. 115 a legacy tax on a bequest consisting wholly of United States bonds was upheld. See Orr v. Gilman, 183 U. S. 278.

Since Long v. Rockwood, 277 U. S. 142, however, it cannot be thought a state may tax directly income from patents or copyrights. While a copyright is not such a federal instrumentality as is a bond, for instance, sold for the purpose of raising funds for the support of government itself, it results from the exercise of a right or privilege to grant copyrights, given exclusively to the United States by [fol. 58] the constitution, and the value to the government of this right or privilege may not be lessened or destroyed by taxation imposed by a state upon the thing created through federal enjoyment of this exclusive privilege.

In Northwestern Mutual Life Insurance Co., v. Wisconsin, 275 U. S. 136 a tax was held invalid because it was in effect imposed upon exempt property, rather than upon the franchise, of the corporation by making the measure of the tax gross returns rather than net receipts. The substantial distinction between these two methods was noted and will be found pointed out at some length in United States Glue Co., v. Oak Creek, Supra, at 328-9. In Gillespie v. Okla-

homa, 257 U. S. 501, income from oil leases on Indian lands was held non-taxable directly as income because the principal was absolutely exempt but no question of the measure of a privilege or excise tax was involved; and in Panhandle Oil Co. v. Mississippi, 277 U. S. 218, it was held that to tax a dealer selling gasoline upon the number of gallons sold and to include therein gasoline purchased by the United States was in effect a tax upon a Federal Government by so much as the cost to it of gasoline so purchased was increased. Yet this case involved a tax on "any person engaged in the business of distributing gasoline" and stands, like the two just previously mentioned, as one where measuring a corporate franchise tax by net income was not in issue.

[fol. 59] It cannot be doubted that this tax is not directly on income but is purely an excise. Speaking of this very statute, in People ex rel. Bass, Ratcliff & Gretton, Ltd., v. State Tax Commission, 266 U. S. 271, on a point quite apart from the issue now presented, after agreeing with the New York Court of Appeals that the tax is "primarily a tax levied for the privilege of doing business in the State" it is said that, "It is not a direct tax upon the allocated income of the corporation in a given year, but a tax for the privilege of doing business in one year measured by the allocated income accruing from business in the preceding year. See New York v. Jersavit, 263 U. S. 493, 496."

Were it not for Macallen v. Massachusetts, 279 U. S. 620, we should have no hesitation in reaching the conclusion that in imposing this tax a constitutionally permissible method of measurement has been used. And that decision, though much relied upon by the plaintiff, does not seem to change the general principle developed in the decisions above referred to but tends to mark the limits of what is mere casual effect upon tax exempt property which will be tolerated in recognizing and trying to overcome the practical difficulties confronting two governments, State and Nation, in raising revenue within the same geographical area.

[fol. 60] It is urged that the same situation is presented here as was in the Macallen case but we think not. After the New York Court of Appeals in People ex rel. Standard

Oil Company v. Law et al., 237 N. Y. 142, held in 1923 that gross income from which deductions were to be made for purposes of state corporate franchise taxation was the same as gross income determined in accordance with the federal law and included no interest on federal securities which were within the exception of "subdivision 4 of Sect. 213 (b)" (U. S. C. A. Title 26 Sec. 554 (b)) the legislature in April 1924, amended the law by adding, inter alia, in Sec. 2090 Chapter 329 the words "plus * * * any interest received on bonds of any character". Again in 1927, the law was amended to "include income from any source, provided only that assets from which the income arose shall be included in any segregation for the purpose of computing the tax". We think it now beside the point that the New York law as amended may, in so far as interest on federal bonds is concerned, be the result of motives not unlike those responsible for the Massachusetts law held invalid in the MacAllen case. That question is not before us. Copyright income was not excluded from gross income in the exception in the federal law referred to in People ex rel. Standard Oil Company v. Law et al., supra. Now, as before, it enters into the measure of the franchise tax purely as a casual incident of that tax. Ac-
[fol. 61] cordingly we have reached the conclusion that this bill of complaint states no cause of action.

Injunction denied and bill dismissed.

[fol. 62] In United States District Court for the Southern District of New York

In Equity. No. E 52-72

Educational Films Corporation of America, Plaintiff,

against

Hamilton Ward, Attorney General of the State of New York, and Thomas M. Lynch, John J. Merrill, and Mark Graves, Comprising the New York State Tax Commission, Defendants

DECREE DENYING INJUNCTION AND DISMISSING BILL

This case came on to be heard on the 8th day of March, 1930, on plaintiff's motion, by order to show cause, for interlocutory injunction herein and on defendants' motion to dismiss the bill of complaint, before Honorable William Bondy, District Judge, and Honorable Harrie B. Chase, Circuit Judge, and Honorable John M. Woolsey, District Judge, whom he called to his assistance, pursuant to Section 380 of the United States Code of Laws, and was argued by counsel, and thereupon, upon consideration thereof, it was

Ordered, adjudged and decreed that the bill of complaint of the plaintiff herein filed on the 18th day of February, 1930, as amended by orders entered herein on the 21st day of February and the 26th day of March, 1930, be and the same hereby is dismissed upon the merits, and plaintiff's application for interlocutory injunction herein is hereby denied, and that plaintiff shall pay to the defendants herein their costs and disbursements to be taxed by the Clerk and [fol. 63] that they have execution therefor.

Dated New York, June 10, 1930.

Harrie B. Chase, U. S. Circuit Judge. Wm. Bondy, U. S. District Judges.

[fol. 64] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL AND ORDER ALLOWING SAME

The above-named plaintiff Educational Films Corporation of America, conceiving itself aggrieved by the final decree made and entered in the above entitled case on the 10th day of June, 1930, dismissing, upon the merits, the bill of complaint here, as amended, and denying the plaintiff's application for interlocutory injunction herein, does hereby petition for an appeal from said decree and each and every part thereof to the Supreme Court of the United States, and it prays that this, its appeal, may be allowed and that a transcript of the record of proceedings

and papers upon which said decree was made, duly authenticated, may be transmitted to the Supreme Court of the United States.

Dated: New York, N. Y., July 18, 1930.

Roger Hinds, Solicitor for Plaintiff. Office & P. O. address: 165 Broadway, Borough of Manhattan, New York City.

The foregoing appeal is hereby allowed this 18 day of July, 1930, upon filing of a bond of costs in the sum of $250.00.

William Bondy, United States District Judge.

A. G., Jr.

[fol. 65] In United States District Court

[Title omitted]

Assignment of Errors

Now comes Educational Films Corporation of America, the above-named plaintiff, appellant herein, and assigns the following errors, namely:

1. That the United States District Court erred in denying plaintiff's application for an interlocutory injunction herein.

2. That the said United States District Court erred in granting the motion of the defendants to dismiss the bill of complaint herein as amended, and in dismissing the same.

3. That the said United States District Court erred in entering a decree denying plaintiff's application for an interlocutory judgment herein and dismissing the bill of complaint herein as amended.

4. That the said United States District Court erred in holding and deciding that Article 9A of the New York Tax Law, in so far at it attempts to include in the measure of the tax provided therein, income received by plaintiff [fol. 66] from copyrights of the United States is not in

contravention and violation of the Constitution of the United States and particularly Section 8 of Article 1 thereof, as imposing a state tax upon income from an instrumentality of the United States and upon means employed by Congress to carry into effect the powers conferred upon it by the Constitution.

5. That the said United States District Court erred in holding and deciding that the collection of the tax of $7,316.51 imposed pursuant to Article 9A of the New York Tax Law threatened by the defendants comprising the New York State Tax Commission and measured by plaintiff's income in so far as the same includes income from copyrights of the United States should not be enjoined during the pendency of this suit, and permanently, as in violation of plaintiff's rights under the Constitution of the United States and particularly Section 8 of Article 1 thereof.

Wherefore plaintiff prays that the said decree be reversed and that the said United States District Court be directed to grant the relief prayed for in plaintiff's bill of complaint and petition of appeal herein.

Roger Hinds, Solicitor for Plaintiff-Appellant.
Benjamin P. De Witt, Siegfried F. Hartman, Roger Hinds, of Counsel.

[fol. 67] In United States District Court

[Title omitted]

Stipulation re Transcript of Record

It is hereby stipulated and agreed that the foregoing is a true transcript of the record of the said District Court in the above entitled matter as agreed upon by the parties.

Dated New York City, August 6th, 1930.

Roger Hinds, Solicitor for Plaintiff. Hamilton Ward, Attorney General, Solicitor for Defendants.

[fol. 68] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 69] IN SUPREME COURT OF UNITED STATES

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION OF THE PARTS OF THE RECORD TO BE PRINTED—Filed Aug. 28, 1930

Now comes the appellant, Educational Films Corporation of America, and in pursuance of Rule 13, subdivision 9, of the Rules of the United States Supreme Court, and states that it adopts its assignment of errors as its statement of the points to be relied upon, and represents that the whole of the record as certified to this Court is necessary for the consideration of this case.

Roger Hinds, Counsel for Appellant, 165 Broadway, Borough of Manhattan, New York City.

[fol. 70] Due and timely service of the within Statement of Points and Designation of Parts of the Record is hereby acknowledged.

Dated August 26, 1930.

Hamilton Ward, Attorney General of the State of New York, of Counsel for Respondent.

[fol. 71] [File endorsement omitted.]

Endorsed on cover: File No. 35,272. S. New York D. C. U. S. Term No. 350. Educational Films Corporation of America, Appellant, vs. Hamilton Ward, Attorney General of the State of New York, and Thomas M. Lynch et al., etc. Filed August 14, 1930. File No. 35,272.